

F  
777.3  
.C53  
1873

# MINING LAWS

621.37

THE LIBRARY  
BRIGHAM YOUNG UNIVERSITY  
PROVO, UTAH

# MINING LAWS

ENACTED

BY THE LEGISLATURE OF COLORADO

FROM FIRST TO NINTH SESSION, INCLUSIVE,

AND

THE LAWS OF THE UNITED STATES

CONCERNING MINES AND MINERALS,

TOGETHER WITH LAWS AND INFORMATION CONCERNING

FARMING AND GRAZING LANDS.

TO MARCH, 1873, INCLUDING INSTRUCTIONS FOR PROCEEDINGS TO OBTAIN TITLES, &C.

---

FOURTH EDITION.

---

CENTRAL CITY:

PUBLISHED BY COLLIER & HALL, REGISTER OFFICE.

1873.



622.0360918  
C 719m  
210 00

# MINING LAWS

ENACTED

BY THE LEGISLATURE OF COLORADO

FROM FIRST TO NINTH SESSION, INCLUSIVE,

AND

THE LAWS OF THE UNITED STATES

CONCERNING MINES AND MINERALS,

TOGETHER WITH LAWS AND INFORMATION CONCERNING

FARMING AND GRAZING LANDS.

TO JULY 1, 1872, INCLUDING INSTRUCTIONS FOR PROCEEDINGS TO OBTAIN TITLES, &c.

---

FOURTH EDITION.

---

CENTRAL CITY:

PUBLISHED BY COLLIER & HALL, REGISTER OFFICE.

1873.

THE LIBRARY  
BRIGHAM YOUNG UNIVERSITY

## PREFACE.

---


The ready sale which our compilation of the laws of Colorado and the United States, affecting mining interests in Colorado, achieved, has convinced us that the people have appreciated our endeavor to satisfy the demand, and the manner in which we have performed it. In the preceding three editions much has been omitted through design or accident, which might have been inserted with profit. These defects we shall attempt in this fourth edition, in part to correct.

In the present issue will be found extracts from land, homestead, and soldiers' bounty land laws, together with the necessary instructions for securing homes and ranches in and out of the Mountains.

Feeling thoroughly identified with the mining population of the Rocky Mountains, and interested in the success of every person who shall attempt the discovery or development of a mine, to increase the wealth and prosperity of our young and vigorous commonwealth, with our best wishes for their unbounded success, we dedicate this pamphlet to the dauntless miners and pioneers of Colorado.

Central City, April 2, 1873.

COLLIER & HALL.



Digitized by the Internet Archive  
in 2017 with funding from  
Brigham Young University



## DISTRICT MINING LAWS.

---

Prior to the organization of Colorado as a Territory, in 1861, and the session of its first Legislature, there were no general laws affecting the whole Territory in force. The mining region was subdivided by natural boundaries into numerous mining districts, according to the convenience or caprice of the mining population. Each district made its own laws. These were, from the nature of the case, in every instance similar, varying, however, in their detail.

In most of the districts, a claim on a gold or silver-bearing lode was limited to one hundred feet in length by fifty feet in width, and the district laws gave to each discoverer one claim by right of discovery, and an additional one by right of location, or, as it was improperly called, by "pre-emption." A few districts, however, gave two hundred feet as a discovery claim, but all additional claims were limited to one hundred feet.

While actual discovery and opening of the crevice until definite walls were found, was always necessary to hold by discovery, after a lode was once found and thus defined, whoever chose to do so could hold adjacent claims by recording in the district record a statement that he claimed by pre-emption the ground which he proposed to hold. Thus a simple record became, by miners' usage, a good and sufficient title.

In 1859 the claimant was required to work on his claim one day in every given number of days; but it was soon found that lodes could not be worked without machinery and capital, and claimants were permitted to hold their property by simply recording a statement that the claim in question was held for future development when machinery

could be obtained. Finally district laws were so changed that no work was required to hold claims, nor was it necessary to announce any future time when work was to be commenced on such claims. After finding the ore in position, as originally deposited, whether within a few inches or a few feet from the surface, all that remained to complete the title was to drive a slender stake marked with the name of the lode and discoverer, at the spot where the discovery was made, and file a simple declaration of such discovery for record with the district recorder, and later, with the county recorder. Mill-sites and water-powers were held by similar titles.

Colorado was carved from Kansas, Nebraska, Utah and New Mexico. Prior to the complete organization of Colorado, the form of declaration for record, was in all the districts substantially as follows :

“TERRITORY OF KANSAS, } ss.  
ARAPAHOE COUNTY, }

———— Mining district.

Know all men by these presents, that I, A. B., claim by right of discovery, discovery claim on the ——— lode situated in the mining district aforesaid.” Or when the claimant takes some other than the discovery claim, the certificate would, commencing with the word “claim,” read “by pre-emption, claim No. ——— east (or west as the case might be,) of discovery claim on ——— lode, situated in the district aforesaid.”

# COLORADO MINING LAWS

PASSED BY THE

## TERRITORIAL LEGISLATURE

FROM 1861 TO 1872, INCLUSIVE.

---

In 1861, members of the first Legislature felt the necessity of some uniform law on the subject, which should apply to every district alike, and a Territorial law was passed and approved. This law did not annul or invalidate titles procured under the district laws, but on the other hand confirmed them, and simply provided a mining code to take the place of district laws in all cases arising after its passage.

A law of August 15, 1862, required that claim No. 3, one way or the other from the discovery claim, should be set apart and recorded for the benefit of the public school fund.

In the act of February 9, 1866, the length of the mining claim was enlarged so as to take in seven hundred feet along the line of the lode, each way from the discovery shaft, or a total of fourteen hundred feet, but the form of record continued virtually the same as for a discovery claim, under the district laws, save the substitution of Colorado as the Territory, instead of Kansas, or any other.

The taking of claims by pre-emption or location was no longer permitted, but each claim must be held by virtue of a vein discovery and recorded under a new name. A school claim of one hundred feet was to be taken on one end, and a poor fund claim of like dimensions on the other.

February 10, 1870, a new law was enacted making the claim three thousand feet in length, leaving the locator to place his discovery at any point on the claim he should choose. The location declaration was changed in form so as to set forth how many feet were south-west and how many north-east of discovery claim. This continued till the passage of the Congressional law of 1872, which limited the claim to one thousand feet, and no claim can be held except by discovery.

We give the laws enacted by the Legislature of Colorado, in full from the beginning down to the present time. At the end of each will be found the date of enactment of each, and of repeal, in case it has been repealed.

---

## AN ACT

### To Protect the Mining Claims and Property of Soldiers.

#### SECTION

1. Soldier's interests in mining claims not sub- Soldiers must file list of claims with Recorder  
ject to levy or sale under miner's laws. of district.

*Be it enacted by the Council and House of Representatives of Colorado Territory:*

SECTION 1. The interest in mining claims, and in mining property of all inhabitants of this Territory, who have enlisted or who may hereafter enlist into the service of the United States, during the present rebellion, shall not be subject to levy or sale, by virtue of any of the miners' laws, or the judgments of any of the miners' courts or clubs, until the expiration of one year from the time when such person shall be legally discharged from such service: *Provided however*, Such soldier shall file in the office of the recorder of the mining district in which claims are located, a list of the same, signed with his name.

SEC. 2. This act shall take effect from and after its passage.

Approved November 6, 1861.

Repealed January 10, 1868.

# ERRATA.

PAGE 8—Seventh line from top. One thousand feet, should read fifteen hundred feet.





# AN ACT

## Concerning Lode Claims.

### SECTION

1. Definition of the term "claim." Previous mining district definitions not to be subverted to the injury of any person.
2. Parties bringing water to mines to have right of way. Not to interfere with prior rights.
3. Miners under buildings, etc., first to secure owners against damages.
4. Tunnel claims to be recorded.
5. Number of feet for tunnel claim. Right of way through lodes
6. Lodes crossing each other.
7. Two crevices found to be one and the same.
8. Mode of ascertaining when two lodes are one and the same.

### SECTION

9. No person allowed to flood the property of another. Miner to take care of his own tailings.
  10. Right of way for hauling quartz.
  11. Soldiers' claims held as real estate.
  12. Records of mining districts to be filed with County Clerk.
- NOTE.—Amended by striking out nine months and inserting two years. Repealed and re-enacted January 10, 1868. Section 8 omitted and mining district records of deeds and conveyances to be received as evidence, added.
- Approved November 7, 1861.

*Be it enacted by the Council and House of Representatives of Colorado Territory:*

SECTION 1. That the term claim, as used in the mining portion of this Territory when applied to a lode, shall be construed to mean one hundred feet of the length of such lode, surface measurement, of the entire width of such lode or crevice; *Provided*, That in no case where the regulations of any mining district have heretofore defined the term claim to mean other than as above defined, nothing in this chapter shall be so construed as to impair the rights of any person or persons holding claims under such regulations as may have been heretofore established by the people of the district in which such claim or claims are situated.

SEC. 2. That whenever any person or persons are engaged in bringing water into any portion of the mines, they shall have the right of way secured to them, and may pass over any claim, road, ditch or other structure: *Provided*, The water be guarded, so as not to interfere with prior rights.

SEC. 3. That no person shall have the right to mine under any building or other improvement, unless he shall first secure the parties owning the same, against all damages, except by priority of right.

SEC. 4. That if any person or persons shall locate a tunnel claim, for the purpose of discovery, he shall record the same,

specifying the place of commencement and termination thereof, with the names of the parties interested therein.

SEC. 5. That any person or persons engaged in working a tunnel, within the provisions of this act, shall be entitled to two hundred and fifty feet each way from said tunnel, on each lode so discovered: *Provided*, They do not interfere with any vested rights. If it shall appear that claims have been staked off and recorded, prior to the record of said tunnel on the line thereof, so that the required number of feet cannot be taken near said tunnel, they may be taken upon any part thereof where the same may be found vacant; and persons working said tunnel shall have the right of way through all lodes which may lie in its course. •

SEC. 6. That when it shall appear that one lode crosses, runs into, or unites with any other lode, the priority of record shall determine the rights of claimants: *Provided*, That in no case where it appears that two lodes have crossed one another, shall the priority of record give any person the privilege of turning off from the crevice or lode which continues in the same direction of the main lode upon which he or they may have recorded their claim or claims, but shall, at all times, follow the crevice running nearest in the general direction of the main lode upon which he or they may have recorded their claim or claims.

SEC. 7. That where two crevices are discovered at a distance from each other, and known by different names, and it shall appear that the two are one and the same lode, the persons having recorded on the first discovered lode shall be the legal owners.

SEC. 8. That to determine when the two lodes are one and the same, it shall be necessary for the person claiming that the two are the same lode, to sink shafts at no greater distance than fifty feet apart, and finding a crevice in each shaft, and forming a continuous line of shafts from one lode to the other, shall be conclusive evidence that the two are one and the same lode.

SEC. 9. That in no case shall any person or persons be allowed to flood the property of another person with water, or wash



down the tailings of his or their sluice upon the claim or property of other persons; but it shall be the duty of every miner to take care of his own tailings, upon his own property, or become responsible for all damages that may arise therefrom.

SEC. 10. That every miner shall have the right of way across any and all claims, for the purpose of hauling quartz from his claim.

SEC. 11. That all claims taken up and recorded by persons who have, since the recording of the same, enlisted in the army of the United States, or the Volunteer force of this Territory, shall be deemed and held as real estate for a period of nine months from the expiration of their term of enlistment or discharge from service, after which time, if not represented by the said soldier or soldiers, all such claims shall be forfeited to any person who may take up the same.

SEC. 12. That a copy of all the records, laws and proceedings of each mining district, so far as they relate to lode claims, shall be filed in the office of the county clerk of the county in which the district is situated, within the boundaries of the district attached to the same, which shall be taken as evidence in any court having jurisdiction in the matters concerned in such record or proceeding.

This act shall take effect from and after its passage.

Approved November 7th, 1861.

February 8, 1866, Section 11 concerning Soldiers' Claims was amended by striking out the words "nine months" in the fifth line and inserting in lieu thereof the words "two years."

January 10, 1868, the entire law was repealed but re-enacted on that day with slight changes. In Section 1, line five "no" is changed to "any." "That" is stricken out at the commencement of each Section. Section 8 is omitted and the following inserted.

"And all such records of deeds and conveyances, laws and proceedings of any mining district heretofore filed in the clerk's office of the proper county, and transcripts thereof duly certified, whether such record relates to gulch claims, lode claims building lots or other real estate, shall have the like effect as evidence."

## AN ACT

To Create a Fund for the Benefit of Schools.

*Be it enacted by the Council and House of Representatives of Colorado Territory:*

## SECTION

1. Claim on each discovery to be set aside for the benefit of schools.
2. Discoverer shall leave vacant claim number three.
3. Duty of recorder etc.
4. Recorder shall deliver certificate to school superintendent.

## SECTION

5. County superintendent to have control of claims, etc. Duty of the Territorial school superintendent.

Approved August 15, 1892.

SECTION 1. That hereafter, when any new mineral lode of either gold-bearing quartz, silver, or other valuable metal, shall be discovered in this Territory, one claim of one hundred feet in length on such lode shall be set apart and held in perpetuity for the use and benefit of schools in this Territory, subject to the control of the Legislative Assembly.

SEC. 2. It shall be the duty of any person or persons making such discovery to leave vacant claim number three on such lode, in the direction from the discovery which he or they may designate, and inform the recorder of the county in which such lode may be situated, who shall record the same free of charge, "for the benefit of schools."

SEC. 3. If the person or persons making such discovery neglect or refuse to designate the direction of such claim, the recorder shall record the same as in his discretion he shall think proper.

SEC. 4. The recorder of the county shall, upon such record being made, deliver to the county superintendent of common schools a certificate of record, in the same manner as to individuals in like cases.

SEC. 5. The county superintendent of common schools shall have the supervision and control of all claims so taken, and shall annually report the number of such claims, and on what lodes they are situated, to the Territorial superintendent of schools, whose duty it shall be to recommend to the Legislative

Assembly such regulations as he may deem necessary for renting or working the same.

Approved August 15, 1862.

NOTE—The position of the school claim was changed as will be seen by the law of February 9, 1866. The enactment of the United States law of July 10, 1866, was regarded as entirely repealing all provisions of the Territorial Laws, setting apart claims for school and poor fund purposes.

The act of August 15, 1862, provides that justices of the peace shall have jurisdiction in all actions for trespass on mining claims in which the amount claimed does not exceed one hundred dollars.

---

## AN ACT

To Define the Extent of Mineral and Quartz Lodes.

*Be it enacted by the Council and House of Representatives of Colorado Territory:*

SECTION 1. That all mineral and quartz lodes hereafter discovered, shall cease and terminate, so far as they have any legal existence, at the distance of eight hundred feet in either direction (on the line of the lode) from the center of the discovery hole.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved March 11, 1864.

Repealed January 10, 1868.

---

## AN ACT

Regulating Titles to Water Powers and Lode Claims.

### SECTION

1. Persons owning water powers, etc., who have been absent from the Territory three years, must appear and occupy within one year or forfeit claims.
2. Claims forfeited may be pre-empted by resident of Territory, and may be forfeited again as in Section 1.
3. In suits respecting claims, burden of proof on persons claiming under first pre-emption to show that first pre-emptor has been resident, etc.

### SECTION

4. This act shall not apply when pre-emptor has sold claims, or sale having been made, vendee has possession; or pre-emptor has agent or attorney in Territory, with power of attorney recorded, or where there are joint owners and one or more reside in Territory, or pre-emptor has been in military service.

Approved February 8 1866.

*Be it enacted by the Council and House of Representatives of Colorado Territory:*

SEC. 1. That all pre-emptions of water-powers, mill-sites, tun-

nels, and mining claims heretofore made by any person or persons within this Territory, are hereby declared to be void, and all rights acquired under them forfeited in all cases wherein the pre-emptor or pre-emptors shall have departed from and remained without the Territory of Colorado for the space of three consecutive years, unless such person or persons owning or pre-empting the same shall appear and occupy and work the same, within one year after the passage of this act, except as hereinafter provided.

SEC. 2. Any and all water-powers, mill-sites, tunnels and mining claims, forfeited by the absence of the pre-emptor, as stated in the first section of this act, shall be subject to pre-emption by any person residing in the Territory, being a citizen of the United States, or a foreigner having filed his intention of becoming such, the same as though such water-power, mill-site, tunnel or mining claim had not been pre-empted, and shall be subject to forfeiture for the same cause, as in the case of the first pre-emptor, as provided in the first section of this act.

SEC. 3. In all suits or proceedings arising between persons claiming any water-power, mill-site, tunnel or mining claim, as subsequent pre-emptors under and by virtue of the provisions of this act, and those claiming under a prior pre-emption, it shall be incumbent upon the person or persons claiming under the prior pre-emption, to show that he or they or the person or persons under whom he or they claim, has been an actual resident of the Territory during some portion of the three years immediately preceding the date of said second or subsequent pre-emption.

SEC. 4. The provisions of this act shall not apply to any case where the original pre-emptor shall, before the passage of this act, have sold or conveyed by a sufficient deed, such water-power, mill-site tunnel or mining claim, or such sale having been made without writing, the vendee shall have ever since held open and actual possession of the same; or where such original or subsequent pre-emptor shall, at the time of his departure, or at some time before the expiration of three years from such departure, have made and appointed a resident of this Territory his agent or attorney, with power to sell and



convey said claims, and shall have caused such power to be recorded in the proper county; or where property is held jointly, and one or more such joint owner shall have been a resident of this Territory during said three years; or where such pre-emptor has been absent from said Territory and in the military service of the United States during said time; but in all such cases the respective rights of parties shall be determined by the laws as they existed before the passage of this act.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved February 8, 1866.

## AN ACT

### Concerning Mines and Minerals.

#### SECTION

1. Discoverer of mineral lode entitled to 1,400 feet, discovery shaft center of claim.
2. Lode shall be marked, how. What shall constitute a valid discovery—shaft shall be sunk or claim forfeited.
3. Persons destroying legal evidences of a discovery guilty of malicious mischief; penalty.
4. Owner of claim shall hold dips, spurs, etc. Width of lode.
5. Provisions of section four applicable to lodes heretofore discovered, when not conflicting with established rights.
6. County clerk shall record one school claim and one claim for miners' relief on each lode.
7. School claim and miners' relief fund. Manner of recording. Where located. Discoverer can locate.
8. No person other than the discoverer can take claim. Extension of same lode—how taken.
9. Fees of recorders. Discoverer pays for recording the entire lode. Certificates must have impress of county seal.

#### SECTION

10. Recorder shall make monthly report of relief claims to county treasurer. On application of county treasurers, commissioners shall appraise relief claims.
11. Appraised claims—county treasurer may sell, bond or lease. Bond and lease—terms of.
12. Lessees must give security. Rent paid semi-annually.
13. Deed of sale executed by county treasurer.
14. County treasurer may employ legal counsel. For what purpose.
15. County treasurers shall account to territorial treasurer. When. What funds, and report all transactions.
16. Compensation of county treasurers. Not to exceed one thousand dollars.
17. County treasurer may be required to give bonds.
18. Relief of disabled miners.
19. How obtained.
20. One half of surplus in treasury appropriated to territorial poor.
21. Conflicting acts repealed.

Approved February 9, 1866.

*Be it enacted by the Council and House of Representatives of Colorado Territory:*

SECTION 1. That hereafter each and every person who shall discover any mineral lode or vein of gold-bearing ore, or of silver or other valuable metals in this Territory, shall, by virtue of such discovery, be entitled to take, hold and possess fourteen hundred (1,400) feet, lineal measure, of such lode or vein, of which the discovery shaft shall be the center thereof; and said fourteen hundred (1,400) feet so taken shall be known and described as the discovery claim.

SEC. 2. All lodes or veins of gold, silver or other valuable minerals, which may hereafter be discovered, shall be marked at the point of discovery by a substantial stake, post or stone monument, having inscribed thereon the name of the discoverer or discoverers, and the name of the lode or vein, with date of discovery; and the discoverer or discoverers shall, before recording, excavate thereon a shaft at least ten feet deep, or deeper, if necessary, to find a well-defined crevice, or forfeit all right and title he or they may have acquired by virtue of such discovery.

SEC. 3. If any person or persons shall willfully and maliciously destroy, deface, misplace, or carry away any stake, landmark or monument, intended to designate the name of the discoverer and name of any lode or vein of minerals, the person or persons so offending shall, on conviction thereof, be deemed guilty of fraudulent and malicious mischief, and be fined in any sum not less than one hundred dollars, nor more than one thousand dollars.

SEC. 4. On all mineral lodes or veins of gold-bearing ores, or of silver or other valuable minerals in this Territory, the owner or owners of all such deposits shall, by virtue of priority of discovery, be deemed and held to be the owner or owners of all spurs, off-shoots, dips, angles, feeders, cross or parallel veins of any character or name whatsoever, lying and being within the limits of twenty-five (25) feet in either direction from the center of said first discovered lode or vein.

SEC. 5. The owner or owners of any claim or claims, or any mineral lode or vein of gold-bearing ores, or of silver or other valuable minerals discovered prior to the passage of this act, shall enjoy the same rights and privileges as provided in section four (4) of this act: *Provided, always,* That nothing in this section contained shall be so construed as to conflict with or impair rights heretofore acquired under existing laws.

SEC. 6. Whenever any such discovery claim, as described in section one (1) of this act, shall be presented for record, it shall be the duty of each recorder, in their respective counties to record for the use and benefit of the common schools of this Territory one claim, and one claim for the use and benefit of

the miners' relief and Territorial poor fund, both of which claims shall be recorded in the name of the Territory or State (as the case may be) of Colorado, for the use and benefit of the schools, disabled miners, and the poor of the said Territory or State of Colorado as hereinafter provided.

SEC. 7. That upon all mineral lodes or veins of gold-bearing ores, or of silver or other valuable minerals, discovered in compliance with the provisions of this act, two (2) claims of one hundred (100) feet each on such lodes or veins shall be set apart and held by the Territory or State of Colorado, one for the use and benefit of the common schools, and the other for the use and benefit of disabled miners and poor of the Territory or State of Colorado, one of which claims shall be located at one extremity of the discovery claim aforesaid, and shall be known and described as number one (1) east, and the other of such claim at the opposite extremity of the discovery claim aforesaid, and shall be known and described as number one (1) west, giving and granting unto the discoverer or discoverers the right and privilege of designating the location of each of the reserved claims as hereinbefore specified.

SEC. 8. No claims shall be taken or recorded upon any lode or vein by virtue of one discovery other than by the person or persons who shall discover the same, and the claim taken for the benefit of schools, and the claim taken for the benefit of disabled miners and the poor of the Territory or State as aforesaid; and if any lode or vein shall extend beyond the limits as hereinafter specified, that portion thereof lying without the limits aforesaid, shall be open to discovery, and may be taken and held in the same manner as the claims first taken thereon.

SEC. 9. That the county recorder in each and every county, to which the provisions of this act may apply, shall be allowed the sum of four dollars for recording and issuing a certificate of pre-emption for such discovery claim of fourteen hundred feet, and the sum of two dollars for entering the same on any abstract of title, and the sum of twenty-five cents for each and every transfer thereafter entered on said abstract; and the fees for the claims taken for the benefit of schools, and the miners' relief and Territorial poor fund shall be included in said sum

of four dollars, and every certificate so issued shall bear the impress of the seal of the county in which the property is situated.

SEC. 10. It shall be the duty of each and every county recorder to report to the county treasurer, on the first day of every month, all claims (not previously reported) which may, in their respective counties have been taken or recorded for the use and benefit of the disabled miners, and Territorial poor fund; and upon application to the county commissioners by the county treasurer of the county in which said claims may be bonded, sold or leased.

SEC. 11. That whenever the county commissioners shall have fixed the price or sum of money for which any claim or claims may be bonded, sold or leased, they may instruct the county treasurer to sell, bond or lease, as the case may be, any or all such claims so appraised by the county commissioners aforesaid: *Provided always*, That no bond shall be given for a term longer than one year, and no lease for a term longer than four years.

SEC. 12. It shall be the duty of each and every county treasurer, in their respective counties, having the control of any claims taken or recorded under the provisions of this act for the miners' relief and Territorial poor fund, in the execution of each and every lease, to take good personal securities from each of the lessees, for the faithful payment of the sums mentioned in the lease, said amount to be paid semi-annually.

SEC. 13. That should a sale at any time be made of any of the claims taken or recorded for the use and benefit of the miners' relief and Territorial poor fund, the county treasurers, in their respective counties where such claims may lie, are hereby authorized and empowered to make the transfer by signing the deed in their official capacity, and said transfer so executed shall constitute a true and valid title.

SEC. 14. That the county treasurers, in their respective counties, in each of the several counties of this Territory, are hereby authorized and empowered to employ, at a just and reasonable compensation, legal counsel to conduct any and all suits in any of the courts of this Territory, growing out of or under the provisions of this act, and relating to all such claims,



which, by and under the provisions of this act, belong to the miners' relief and Territorial poor fund.

SEC. 15. That the county treasurers in each of the said counties of this Territory shall keep a correct account of all money or sums of money received by them, by, through or under the provisions of this act, and shall, after deducting their compensation, as hereinafter provided, transmit on or before the first day of December and the first day of June in each year, to the Territorial Treasurer, all remaining funds or property belonging to the miners' relief and Territorial poor fund, and shall accompany the same with a full and complete report of all transactions relative to the same.

SEC. 16. That the several county treasurers aforesaid shall each of them receive, as a compensation for their services in the faithful execution of their duties under the provisions of this act, as provided in sections 9, 10, 11, and 14 of said act, ten per cent. of all sums collected or received by them from the sale or lease of said claims, or from any source whatsoever growing out of or under the provisions of this act: *Provided, however,* That the compensation accruing therefrom does not exceed one thousand dollars annually.

SEC. 17. That whenever the county commissioners of any county to which the provisions of this act may apply, shall deem the amount of bond previously given by the county treasurer insufficient, they may require of such county treasurer additional bonds with security, to be approved by them, in such sum as they may deem proper and necessary to insure the faithful execution of the trust confided in such treasurers by the terms of this act.

SEC. 18. That if any person, of the class of persons known to be miners, shall be disabled in the pursuit of his occupation as a miner, he shall be entitled to receive, out of the funds raised under the provisions of this act, a sum sufficient to pay his necessary expenses, incurred by reason of his disability or injury so incurred, including necessary medical attendance: *Provided, however,* That at the time such injury or disability shall occur, there shall be funds in the treasury to meet such expenditure.

SEC. 19. Any person claiming, under the provisions of this act, the benefit of the miners' relief and Territorial poor fund, shall make his application for relief to the treasurer of the proper county, who, after he shall be satisfied that the claim is just and proper, shall allow the same, and draw his order for the amount thereof upon the Territorial Treasurer, who shall pay the same out of any funds in his possession belonging to the miners' relief and Territorial poor fund.

SEC. 20. That no money shall be used or paid out of the miners' relief and Territorial poor fund by the Territorial Treasurer, in any other manner than hereinbefore provided, until the close of each fiscal year, when one-half of the funds raised by this act and remaining in the hands of the Territorial Treasurer, may be appropriated to the benefit of the poor of the Territory, in such manner as may be provided for by existing laws.

SEC. 21. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 22. This act shall take effect and be in force from and after its passage.

Approved February 9, 1866.

NOTE.—Section eight of a supplementary act approved February 9, 1866, provides that before poor fund claims shall be sold, the sale of such claims shall be approved by the Territorial Treasurer.

# AN ACT

Supplemental to An Act Entitled "An Act to Create a Fund for the Benefit of Schools," Approved August 15, 1862.

## SECTION

1. Persons who have pre-empted or jumped school claims, and who shall not relinquish the same before June 1, 1866. And persons who shall hereafter pre-empt or jump school claims guilty of misdemeanor. And proceeded against by indictment, shall be fined, and subject to civil action. Vendees and lessees liable to the same penalties as jumpers.
2. Powers conferred on county superintendents of schools.
3. County superintendents of schools shall ascertain whether claims have been jumped &c. And present jumpers of school claims, to the grand jury must proceed in civil action for damages. Court must render judgment for triple amount damages assessed by jury.
4. County superintendents of schools to report number of school claims to county com-

## SECTION

- missioners, County commissioners to appraise school claims. County superintendents may sell or lease. Term of lease. Lessees must give security. Rent paid semi-annually. Deed executed by county superintendents.
  5. County superintendents must give bond. To be fixed and approved by county commissioners. Conditions of bond. Credits of superintendent.
  6. County superintendents may employ attorneys. How paid.
  7. Compensation of superintendents Not to exceed \$3,000.
  8. Suits by information not affected.
  9. County recorder who shall neglect or refuse to record claim shall be fined. Penalty. Illegal sales.
- Approved January 23, 1866.

*Be it enacted by the Council and House of Representatives of Colorado Territory:*

SECTION 1. That all persons who have heretofore pre-empted upon the records of any county in this Territory, or jumped or trespassed upon, or illegally attacked or interfered with the title to any claim set apart and duly recorded for the benefit of schools under and by virtue of an act to which this act is supplementary, (entitled "An Act to create a fund for the benefit of schools," approved August 15, 1862,) who shall not have relinquished upon the records of the county in which said claim or claims are situated, all assumed or pretended right, title and interest in and to the same, and who shall not have surrendered the possession thereof on or before the first day of June, A. D. 1866, and all persons who shall hereafter pre-empt, jump or otherwise trespass upon or illegally attack or interfere with the title to any such mining claim or claims, shall be deemed and held guilty of a misdemeanor, and shall be proceeded against by an indictment to be found by the grand jury of the county in which the offense may be committed, and upon conviction of said misdemeanor, shall be fined in a sum not less than fifty dollars nor more than ten thousand dollars, and shall also be subject to a civil action for damages as hereinafter set forth. The vendees and lessees of all persons guilty of the

acts herein denominated misdemeanors, claiming to hold any such claim or claims, by or through such person or persons so guilty of a misdemeanor or misdemeanors as aforesaid, shall be held amenable to all the provisions of this act applicable to the person or persons guilty of the misdemeanor or misdemeanors as aforesaid, and may be proceeded against in the same manner and with like effect.

SEC. 2. That the county superintendents of schools in each and every county of the Territory where mineral lodes of gold-bearing quartz, silver or other valuable metal have been or may hereafter be found, are, in addition to the powers given here, and duties imposed on them by an act entitled "An Act to create a fund for the benefit of schools," approved August 15th, A. D. 1862, empowered, authorized and required to do and perform the matter and things hereinafter set forth.

SEC. 3. Said county superintendents of schools shall, in their respective counties, carefully inquire into, the condition of the school claims mentioned in the act to which this act is supplemental, and whether the same have been pre-empted by individuals on the record, jumped or trespassed upon, or the title to said claims illegally attacked or interfered with; and if any such school claims have been pre-empted by any person or persons, on the record of any county in which said claim or claims may lie, or the same has been jumped or trespassed upon, or the title thereto illegally attacked or interfered with, and the person or persons so pre-empting, jumping, trespassing upon, attacking, or in any way interfering with said claims as aforesaid, shall not, on or before the first day of June, A. D. 1866, relinquish upon the record of the county in which said acts may be done, and surrender the possession thereof also all assumed or pretended right, title, and interest to any such school claims as should or do belong to the school fund by virtue of the act to which this act is supplemental; and further, if in the future any such school claim or claims shall be pre-empted, jumped or trespassed upon, or the title of the same illegally attacked or trespassed with, by any person or persons, then in every such case, the aforesaid county superintendents of schools, in their respective counties, are hereby authorized and



required to present to the grand jurors of their respective counties, for indictment, the person or persons so offending, and shall also proceed in their official character and name, to the use and for the benefit of the schools of said Territory, against such person or persons, in an action of trespass, or of case (as may be deemed most suitable) for all loss and damage that may have been sustained. And if in any such civil action the issues are found against the defendant or defendants, and damages are assessed by the jury, the court shall, in all such cases, render judgment against such defendant or defendants, for three times the amount of damages so assessed.

SEC. 4. The county superintendents of schools in each of the counties mentioned in the second section of this act, shall annually present to the board of county commissioners of their respective counties, and at their first meeting after the general election, a schedule of all the claims so set apart (not previously rendered) as aforesaid for the benefit of schools, and upon the recommendation of the county superintendent of schools, the county commissioners shall fix the price or sum of money for which each of the said claims may be sold or leased, and upon the fixing of the several amounts for which said claims may be sold or leased as aforesaid, the said county superintendents of schools shall, in their respective counties, proceed as county superintendents of schools having the superintendence and control of said claims, to sell or lease as the case may be. *Provided, however,* That the term of the lease shall not exceed six years without renewal; and further, it shall be the duty of the county superintendents of schools, in the execution of each and every lease, to take good personal securities from each of the lessees, for the faithful payment of the sums mentioned in the lease, said amount to be paid semi-annually. And further, should a sale at any time be made of any of the aforesaid school claims, the county superintendents of schools, in the respective counties in which said claim or claims are located, are hereby authorized and empowered to make the transfer, by signing the deed in their official capacity, and said transfer so executed shall constitute a true and valid title.

SEC. 5 Each county superintendent of schools, before leasing

or selling any of the school claims aforesaid, shall enter into a bond to the Territory of Colorado, the penalty thereof to be fixed and approved by the board of county commissioners of his county, conditioned that the said county superintendent of schools shall faithfully comply with the provisions of this act, collect, and after such collections preserve the money accruing from the civil actions aforesaid, and the sale of claims or leases aforesaid, until the same is appropriated by the proper authority or his term of office expires, and upon such appropriation or the expiration of his term of office, shall promptly pay over such money so appropriated, and the residue thereof, if any, to his successor in office, and the vouchers for all sums of money paid out by any such county superintendents of schools under and by this act, shall be credited to said county superintendent of schools as so much cash. He shall also be credited with the amount of his compensation hereinafter specified.

SEC. 6. To carry out the provisions of this act, the several county superintendents of schools aforesaid are authorized to employ, at a just and equitable compensation, one or more attorneys (not to exceed three) to conduct all suits in court accruing out of or under the provisions of this act; and said attorneys shall be paid out of the Territorial school fund, upon the presentation to the proper officer of a certificate from the county superintendent of schools who employed them (or the successor of such county superintendent) that the sum claimed by said attorney is justly due.

SEC. 7. The several county superintendents of schools aforesaid shall each of them receive as a compensation for the services in the matter aforesaid, for each year's services, ten per cent. on all sums collected or received by them from the fines, leases or damages for trespass as aforesaid: *Provided however,* The compensation accruing therefrom does not exceed \$3,000, in case of which the overplus shall accrue to the general school fund.

SEC. 8. Nothing in this act shall be so construed as to prevent the filing and prosecution of suits in the nature of information in chancery, brought by the proper authority, to secure and protect said claims, nor shall this act in anywise invalidate or effect suits already brought by information or otherwise.

SEC. 9. Every county recorder who shall willfully neglect or refuse to record any claim set apart for school purposes as provided by law, or who shall record a jumper's so-called pre-emption, shall be subject to a fine not less than five hundred dollars nor more than five thousand dollars, such fine to go to the school fund.

SEC. 10. Any conveyance or sale of school claims, except as provided in the foregoing sections, shall be unlawful, and therefore null and void.

SEC. 11. This act to take effect and be in force from and after its passage.

Approved January 23, 1866.

NOTE.—Section seven of an act of February 9, 1866, provided that before school claims are sold by the county superintendent of public schools, the sale of such claims must be approved by the Territorial Superintendent.

#### OCCUPANCY AND ABANDONMENT.

Revised Statutes January 10, 1868, Chapter LXXII:

SEC. 4. All rights of occupancy, possession and enjoyment of any tract or portion of the said public domain acquired before the seventh day of November, A. D. 1861, shall be ascertained, adjudged and determined by the local law of the district or precinct in which such tract is situated, as it existed on the day when such rights were acquired, or as it thereafter may have existed; and if there were no local laws at that time, then by the custom then prevailing in respect to such property in the district or precinct in which it existed. All such rights of occupancy, possession and enjoyment, acquired since the said seventh day of November, A. D. 1861, shall be ascertained, adjudged or determined by the laws of this Territory in force at the time of such acquisition.

SEC. 12. \* \* \* \* It shall be lawful for the citizens of every mining district, to declare an abandonment of any creek, river, gulch, bank or mining claim, a forfeiture of the right thereto; in which case, the parties claimant shall not be enabled to maintain either of the actions, mentioned in section eight of this chapter.

## AN ACT

Defining Rights and Liabilities of Miners and Millmen in Certain Cases.

*Be it enacted by the Council and House of Representatives of Colorado Territory:*

SECTION 1. That hereafter when any person or persons or corporations shall be engaged in mining or milling, and in the prosecution of such business shall hoist or raise water from mines or natural channels, and the same shall flow away from the premises of such persons or corporations to any natural channel, gulch or draw, the same shall be considered beyond the control of the party so hoisting or raising the same, and may be taken and used by other parties the same as that of natural water-courses.

SEC. 2. After any such water shall have been so raised, and the same shall have flown into any such natural channel, gulch or draw, the party so hoisting or raising the same shall only be liable for injury caused thereby, in the same manner as riparian owners along natural water-courses.

SEC. 3. This act shall take effect from and after its passage.

Approved February 11, 1870.

## AN ACT

For the Relief of Pre-emptors and Locators of veins or lodes of Quartz, or other rock on the Mineral Lands of the Public Domain.

*Be it enacted by the Council and House of Representatives of Colorado Territory:*

SECTION 1. No statutory law of Colorado territory shall be so construed as to prohibit the location of three thousand feet or less, on any vein or lode in the manner prescribed in section four, of an act of congress, approved, July twenty-sixth, entitled "An act granting the right of way, to ditch and canal owners, over the public lands, and for other purposes": nor to prejudice any rights to obtain patents for the same, as provided in said act.



SEC. 2. All pre-emptions and locations of three thousand feet, or less, on any vein, lode or ledge, made since the passage of the said act of congress, and conforming to the same shall be good and valid.

SEC. 3. Nothing in this act shall be so construed as to prejudice any rights acquired prior to the passage of this act.

SEC. 4. This act shall take effect and be in force from and after its passage.

Approved February 11, 1870.

## AN ACT

To Provide for the Drainage of Mines.

### SECTION

2. Penalty for refusing to provide for drainage.
3. Contiguous corporations may unite for purposes of drainage.
4. Method of procedure in case of failure to agree.

### SECTION

5. Concerning lessees.
  6. Charges against mines not worked—when due.
- Approved January 31, 1872.

*Be it enacted by the Council and House of Representatives of Colorado Territory:*

SECTION 1. Whenever contiguous or adjacent mines upon the same, or upon separate lodes, have a common ingress of water, or from subterraneous communication of the water have a common drainage, it shall be the duty of the owners, lessees or occupants of each mine so related to provide for their proportionate share of the drainage thereof.

SEC. 2. Any parties so related, failing, neglecting or refusing to provide as aforesaid for the drainage of the mines owned or occupied by them, thereby imposing an unjust burden upon neighboring mines, shall pay respectively to those performing the work all damage which may be sustained by such failure, neglect or refusal.

SEC. 3. It shall be lawful for all mining corporations or companies, and all individuals engaged in mining, having thus a common interest in draining such mines, to unite for the purpose of effecting the same, under such common name and upon such conditions as may be agreed upon; and every such association having filed a certificate of incorporation as provided in the

eighteenth chapter of the Revised Statutes of Colorado, shall be deemed a corporation, with all the rights, incidents, and liabilities of a body corporate, according to the provisions of the aforesaid statute so far as the same may be applicable.

SEC. 4. Failing to mutually agree, as indicated in the preceding section, for drainage jointly, one or more of the said parties may undertake the work of drainage, either by sinking a pump shaft or by running an adit, after giving reasonable notice; and should the remaining parties then fail, neglect or refuse to unite in equitable arrangements for doing the work or sharing the expense thereof, they shall be subject to damages as already specified, to be enforced in any court of competent jurisdiction.

SEC. 5. Whenever the mine or mines thus drained are in possession or being worked by lessees, and such lessees have no property or effects out of which the judgment for damages may be satisfied, the plaintiff bringing his action for damages shall be entitled to a writ of attachment in aid of his said action, upon filing an affidavit showing that said lessees have no property out of which the judgment for damages may be satisfied.

SEC. 6. In case any mine shall not be worked, the charge against said mine shall only be due and payable when the work shall be resumed, and progressively as the same shall be continued, in which case a sworn statement of the cost and monthly progress of the work shall be made by the draining party or his agent, and placed on file in the office of the county clerk of the county wherein such mine is situated.

SEC. 7. The provisions of this act shall not be construed to apply to undeveloped mines, but to those only which shall have been opened, and shall clearly derive a benefit from being drained.

SEC. 8. That "An Act to provide for the drainage of mines," approved February 11, A. D. 1870, be and the same is hereby repealed.

Approved January 31, 1872.

NOTE.—A similar law was enacted by the Legislature of 1870, but no rights were acquired under it.

# LIENS.

## AN ACT

Creating a lien in favor of Miners in certain cases.

| SECTION   | SECTION  |
|---|--|
| 1. Miners and mechanics may have lien upon mine, shaft, tunnel, adit etc. | 4. Liens upon mines. Statements. Service. Approved February 9, 1872. |
| 2. How enforced.  |  |

*Be it enacted by the Council and House of Representatives of Colorado Territory :*

SECTION 1. That any person who shall, by contract with the owner of any mine, tunnel, shaft or adit, or the lessee of any mine, tunnel, shaft, or adit, or the agent or superintendent of any incorporated company owning any mine, tunnel, shaft or adit, situated in this Territory, furnish labor or material for sinking any shaft, or running any tunnel or adit for the development of any mine, shall have a lien from the date of the contract upon such mine, tunnel, shaft or adit for the amount due him for such labor or material, in the same manner as now allowed by law to mechanics for furnishing labor or materials for the erection or repair of buildings.

SEC. 2. Liens provided for in this Act shall be enforced in the same manner that mechanics' liens are now enforced by law.

SEC. 3. This act to take effect and be in force on and after its passage.

Approved January 11, 1867.

NOTE.—This law was re-enacted January 10, 1868, and amended by an act approved February 11, 1870, as follows:

“That the following words after the word “adit,” on the second line of section one, article two, of chapter fifty-four, entitled liens, to-wit: “Or the lessee of any mine, tunnel, shaft or adit,” be stricken out of said section, and that said words be repealed.”

“This act to take effect and be in force from and after its passage.”

The law of February 9th, 1872, reads:

Section 4. All miners, laborers, and others who work or labor

to the amount of twenty-five dollars (\$25) or more, in or upon any mine, lode or deposit yielding metals or minerals of any kind, or upon any shaft, tunnel, adit or other excavation, designed or used for the purpose of draining or working any such mine, lode or deposit, and all persons who shall furnish any timber or other materials to the amount of twenty-five dollars (\$25) or more, to be used in or about any such mine, lode or deposit, shall have and may each respectively claim and hold a lien upon such mine, lode or deposit for the amount and value of the work or labor so performed or materials furnished, by filing in the county clerk and recorder's office of the county in which such mine, lode or deposit is situated, within forty days after the time when the last work or labor was performed or the last materials were furnished by him, a statement as required by section two (2) of this act; or if such lien is claimed by a sub-contractor, or any other person than a contractor performing work or labor or furnishing materials, then by filing such statement within twenty days after the time when the last work or labor was performed or the last materials furnished by him, and serving a copy of such statement upon the owner or owners of such mine, lode or deposit or his or their agent, within the time and in the manner provided in section three (3) of this act: *And provided*, That when two or more such lodes or deposits, owned or claimed by the same person or persons, shall be worked through a common shaft, tunnel, incline or adit, then all the lodes or deposits so worked shall, for the purpose of this act be deemed one mine: *And provided further*, That this section shall not be deemed applicable to the owner or owners of any mine, lode, deposit, shaft or adit where the same shall be worked by a lessee or by lessees.

\* \* \* \* \*

Section 13. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved February 9, 1872.



# UNITED STATES MINING LAWS.

---

## PREFACE.

The discovery of gold and silver mines within the United States had not been contemplated by our law makers. It was a subject little understood and lest Legislation should be injurious it was omitted by the general government. In the meantime each State, Territory and district made such laws as best suited itself, regardless of the enactment of any other, but a remarkable coincidence occurred throughout the whole. The first attempt to Legislate by Congress was a law exacting a royalty of a given per centage of the product of all mines of gold and silver worked, but this was soon found to be impracticable and abandoned.

Up to July 26, 1866, no laws affecting the public domain containing mines of gold and silver have been enacted by the General Government. Every occupant of gold and silver mines in Colorado was but a trespasser on Indian territory, or the public domain, and was liable to be prosecuted as such. Even as late as the summer of 1865 some fifty or sixty suits were commenced against persons in Gilpin County, for cutting the fuel necessary for carrying on mining operations. This annoyance was removed by the passage of the law last mentioned, and the miner is placed on a still better footing by that of May 10th, 1872.

This law cuts down the length of the claim to one thousand feet which can only be located by virtue of having made a discovery of the vein within the limits of the claim. The law of '66 is regarded as repealing the Territorial law providing for School and Poor Fund claims.

The law of 1872 required the working of all unpatented claims prior to May 1, and in case of failure to work them declares them abandoned and subject to relocation, but the law of March 1, 1873, extends this limitation to June 10, 1874.

The law of 1872 changes the mode of locating claims, requiring them to be surveyed and the limits and bounds marked with permanent points or monuments or by natural landmarks.

# UNITED STATES MINING LAWS.

## AN ACT

Granting the Right of Way to Ditch and Canal Owners Over the  
Public Lands and for other Purposes.

### SECTION

1. Mineral lands declared open to occupation to all citizens.
2. Who may enter and how.
3. Proceedings to be had before patent issues.
4. Proceedings when the location of mine is upon unsurveyed lands. Location not to exceed 200 feet.
5. Conditions of sale.
6. Proceedings stayed.

### SECTION

7. Additional land districts.
  8. Right of way for highways.
  9. Use of water for mining, to be protected. Damages.
  10. Owners of homesteads may pre-empt, or take homesteads.
  11. Agricultural lands subject to pre-emption and sale.
- Approved, July 26, 1866.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled :*

SECTION 1. That the mineral lands of the public domain, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and occupation by all citizens of the United States, and those who have declared their intention to become citizens, subject to such regulations as may be prescribed by law, and subject also to the local customs or rules of miners in the several mining districts, so far as the same may not be in conflict with the laws of the United States.

SEC. 2. *And be it further enacted,* That whenever any person or association of persons claim a vein or lode of quartz, or other rock in place, bearing gold, silver, cinnabar, or copper having previously occupied and improved the same according to the local customs or rules of miners in the district where the same is situated, and having expended in actual labor and improvements thereon an amount of not less than one thousand dollars, and in regard to whose possession there is no contro-

versy or opposing claim, it shall be lawful for said claimant or association of claimants to file in the local land office a diagram of the same, so extended laterally or otherwise as to conform to the local laws, customs, and rules of miners, and to enter such tract and receive a patent therefore, granting such mine, together with the right to follow such vein or lode with its dips, angles, and variations to any depth, although it may enter the land adjoining, which land adjoining shall be sold subject to this condition.

SEC. 3. *And be it further enacted*, That upon the filing of the diagram as provided in the second section of this act, and posting the same in a conspicuous place on the claim, together with a notice of intention to apply for a patent, the register of the land office shall publish a notice of the same in a newspaper published nearest to the location of said claim, and shall also post such notice in his office for the period of ninety days; and after the expiration of said period, if no adverse claim shall have been filed, it shall be the duty of the Surveyor-General, upon application of the party, to survey the premises and make a plat thereof indorsed with his approval, designating the number and description of the location, the value of the labor and improvements, and the character of the vein exposed; and, upon the payment to the proper officer of five dollars per acre together with the cost of such survey, plat and notice, and giving satisfactory evidence that said diagram and notice have been posted on the claim during said period of ninety days, the register of the land office shall transmit to the general land office said plat, survey and description, and a patent shall issue for the same thereupon. But said plat, survey or description shall in no case cover more than one vein or lode, and no patent shall issue for more than one vein or lode, which shall be expressed in the patent issued.

SEC. 4. *And be it further enacted*, That when such location and entry of a mine shall be upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the public surveys, to adjust the surveys to the limits of the premises according to the location and possession and plat aforesaid, and the Surveyor-General may, in extending the surveys, vary the



same from a rectangular form to suit the circumstances of the country, and the local rules, laws and customs of miners: *Provided*, That no location hereafter made shall exceed two hundred feet in length along the vein for each locator, with an additional claim for discovery to the discoverer of the lode, with the right to follow such vein to any depth, with all its dips, variations, and angles, together with a reasonable quantity of surface for the convenient working of the same as fixed by local rules: *And provided further*, That no person may make more than one location on the same lode, and not more than three thousand feet shall be taken in any one claim by any association of persons.

SEC. 5. *And be it further enacted*, That, as a further condition of sale in the absence of necessary legislation by Congress, the local Legislature of any State or Territory may provide rules for working mines involving easements, drainage, and other necessary means to their complete development, and those conditions shall be fully expressed in the patent.

SEC. 6. *And be it further enacted*, That when any adverse claimants to any mine located and claimed as aforesaid shall appear before the approval of the survey, as provided in the third section of this act, all proceedings shall be stayed until a final settlement and adjudication in the courts of competent jurisdiction of the rights of possession to such claim, when a patent may issue as in other cases.

SEC. 7. *And be it further enacted*, That the President of the United States be, and is hereby authorized, to establish additional land districts, and to appoint the necessary officers under existing laws wherever he may deem the same necessary for the public convenience in executing the provisions of this act.

SEC. 8. *And be it further enacted*, That the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.

SEC. 9. *And be it further enacted*, That whenever by priority of possession, rights to the use of water for mining, agricultural, manufacturing or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors

and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes aforesaid is hereby acknowledged and confirmed: *Provided however*, That whenever after the passage of this act, any person or persons shall, in the construction of any ditch or canal, injure or damage the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

SEC. 10. *And be it further enacted*, That wherever, prior to the passage of this act, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar or copper discovered, and which are properly agricultural lands, the said settlers or owners of such homesteads shall have a right of pre-emption thereto, and shall be entitled to purchase the same at the price of one dollar and twenty-five cents per acre, and in quantity not to exceed one hundred and sixty acres, or said parties may avail themselves of the provisions of the act of Congress, approved May twenty, eighteen hundred and sixty-two, entitled "An Act to secure homesteads to actual settlers on the public domain," and acts amendatory thereof.

SEC. 11. *And be it further enacted*, That upon the survey of the lands aforesaid, the Secretary of the Interior may designate and set apart such portions of said lands as are clearly agricultural lands, which lands shall thereafter be subject to pre-emption and sale as other public lands of the United States, and subject to all the laws and regulations applicable to the same.

Approved July 26, 1863.

## AN ACT

To Amend "An Act Granting the Right of Way to Ditch and Canal Owners Over the Public Lands and for other Purposes.

## SECTION

1. Sections to be added to former act.
2. Placer claims subject to entry and patents. If lands have been surveyed entry to conform, etc. Price of lands. Ten acre tracts. Joint entry of contiguous claims. Placer claim. Homestead.
3. Evidence of possession. Lines not affected.

## SECTION

4. Ex parte affidavits.
  5. Fees. Regulations to carry act into effect.
  6. Public surveys extended over mineral lands. Rights conferred by certain sections of former act.
- Approved July 9. 1870.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:*

That the act granting the right of way to ditch and canal owners over the public lands, and for other purposes, approved July twenty-six, eighteen hundred and sixty-six, be and the same is hereby amended, by adding thereto the following additional sections, numbered 12, 13, 14, 15, 16, and 17, respectively, which shall hereafter constitute and form a part of the aforesaid act:

SEC. 12. *And be it further enacted*, That claims usually called "placers," including all forms of deposits, excepting veins of quartz or other rock in place, shall be subject to entry and patent under this act, under like circumstances and conditions, and upon similar proceedings as are provided for vein or lode claims: *Provided*, That where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands, no further survey or plat in such case being required, and the lands may be paid for at the rate of two dollars and fifty cents per acre: *Provided further*, That legal subdivisions of forty acres may be subdivided into ten-acre tracts, and that two or more persons or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof: *And, provided further*, That no location of a placer claim hereafter made shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any *bona fide* pre-emption or homestead claim upon ag-

ricultural lands, or authorize the sale of the improvements of any *bona fide* settler to any purchaser.

SEC. 13. *And be it further enacted*, That where said person or association, they and their grantors, shall have held and worked their said claim for a period equal to the time prescribed by the statute of limitations for mining claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this act in the absence of any adverse claim: *Provided, however*, That nothing in this act shall be deemed to impair any lien which may have attached in any way whatever to any mining claim or property thereto attached prior to the issuance of a patent.

SEC. 14. *And be it further enacted*, That all *ex parte* affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land district where the claim may be situated.

SEC. 15. *And be it further enacted*, That registers and receivers shall receive the same fees for services under this act as are provided by law for like services under other acts of Congress, and that effect shall be given to the foregoing act according to such regulations as may be prescribed by the commissioner of the general land office.

SEC. 16. *And be it further enacted*, That so much of the act of March third, eighteen hundred and fifty-three, entitled "An act to provide for the survey of the public lands in California, the granting of pre-emption rights, and for other purposes," as provides that none other than township lines shall be surveyed where the lands are mineral, is hereby repealed, and the public surveys are hereby extended over all such lands: *Provided*, That all subdividing of surveyed lands into lots less than one hundred and sixty acres may be done by county and local surveyors at the expense of the claimants: *And, provided further*, That nothing herein contained shall require the survey of waste or useless lands.

SEC. 17. *And be it further enacted*, That none of the rights conferred by sections five, eight, and nine of the act to which



this act is amendatory shall be abrogated by this act, and the same are hereby extended to all public lands affected by this act; and all patents granted, or pre-emption or homesteads allowed, shall be subject to any vested and accrued water rights or rights to ditches and reservoirs used in connection with such water rights as may have been acquired under or recognized by the ninth section of the act of which this act is amendatory. But nothing in this act shall be construed to repeal, impair or in any way affect the provisions of the "Act granting to A. Sutro the right of way and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July twenty-fifth, eighteen hundred and sixty-six.

Approved July 9, 1870.

## AN ACT

To Promote the Development of the Mining Resources of the United States.

### SECTION

1. Mineral lands to be open to citizens, etc.
2. Length of mining-claims. Width.
3. Locators of mining locations where there is no adverse claim, etc. Limitations.
4. Rights of tunnel owners. Abandonment.
5. Miners may make certain rules. Requirements as to locations. Records. Amount of work necessary to hold possession. Relocations. Rights of co-owners. Interest of delinquents after notice, etc.
6. Patent for land claimed, etc. How obtained.
7. Proceedings if adverse claim is filed. Judgment. Patent to issue to party entitled. Where there are several parties entitled to different portions of claim. Citizenship. Alienation of title by patent.
8. Description of vein claims on surveyed and unsurveyed lands.

### SECTION

9. Sections of act of 1866 repealed. Existing rights not affected.
10. Proceedings to obtain patents.
11. Proceedings for patent for placer-claim which includes a vein or lode.
12. Surveyor general may appoint district surveyors. Expense of survey. Commissioner of land office to establish maximum charges. Fees of register and receiver.
13. Affidavits under this act, etc. Testimony in contests, how taken.
14. Where veins intersect priority of title to govern. Where veins unite, oldest location to take.
15. Patents to non-mineral lands. Limit of such land.
16. Repealing Clause.

Approved, May 10, 1872.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

SECTION 1. That all valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and



purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining districts, so far as the same are applicable and not inconsistent with the laws of the United States.

SEC. 2. That mining claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining claim located after the passage of this act, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulations to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing at the passage of this act shall render such limitation necessary. The end-lines of each claim shall be parallel to each other.

SEC. 3. That the locators of all mining locations heretofore made, or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns where no adverse claim exists at the passage of this act, so long as they comply with the laws of the United States, and with State, Territorial, and local regulations not in conflict with said laws of the United States governing their possessory title shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface-lines extended downward vertically, although such veins, lodes or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of said surface locations: *Provided*, That their right of possession to

such outside parts of said veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as aforesaid through the end-lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of said veins or ledges: *And, provided further,* That nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

SEC. 4. That where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owner of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of said tunnel.

SEC. 5. That the miners of each mining district may make rules and regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: The location must be distinctly marked on the ground, so that its boundaries can be readily traced. All records of mining claims hereafter made shall contain the name or names of the locators, the date of the location, and such description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the passage of this act, and until a patent shall have been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year. On all claims located prior to the passage of this act, ten dollars'

worth of labor shall be performed or improvements made each year for each one hundred feet in length along the vein until a patent shall have been issued therefor; but where such claims are held in common such expenditure may be made upon any one claim, and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation, in the same manner as if no location of the same had ever been made: *Provided*, That the original locators their heirs, assigns, or legal representatives, have not resumed work upon the claim after such failure and before such location. Upon the failure of any one of the several co-owners to contribute his portion of the expenditures required by this act, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion to comply with this act, his interest in the claim shall become the property of his co-owners who have made the required expenditures.

SEC. 6. That a patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association or corporation authorized to locate a claim under this act, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of this act, may file in the proper land office an application for a patent, under oath, showing such compliance, together with a plat and field-notes of the claim or claims in common, made by or under the direction of the United States surveyor general, showing accurately the boundaries of the claim or claims, which shall be distinctly marked by monuments on the ground and shall post a copy of such plat, together with a notice of such application for a patent, in a conspicuous place on the land embraced in such plat previous to the filing of the application for a patent, and shall file an affidavit of at least two persons that such notice has been duly posted as aforesaid, and

shall file a copy of said notice in such land office, and shall hereupon be entitled to a patent for said land in the manner following: The register of the land office, upon the filing of such application, plat, field notes, notices, and affidavits, shall publish a notice that such application has been made, for the period of sixty days, in a newspaper to be by him designated and published nearest to said claim; and he shall also post such notice in his office for the same period. The claimant at the time of filing this application, or at any time thereafter, within the sixty days of publication, shall file with the register a certificate of the United States surveyor-general that five hundred dollars' worth of labor has been expended or improvements made upon the claim by himself or grantors; that the plat is correct, with such further description by such reference to natural objects or permanent monuments as shall identify the claim, and furnish an accurate description, to be incorporated in the patent. At the expiration of sixty days of publication the claimant shall file his affidavit, showing that the plat and notice have been posted in a conspicuous place on the claim during said period of publication. If no adverse claim shall have been filed with the register and the receiver of the proper land office at the expiration of the sixty days of publication, it shall be assumed that the applicant is entitled to a patent, upon the payment to the proper officer of five dollars per acre, and that no adverse claim exists: and thereafter no objection from third parties to the issuance of a patent shall be heard, except it be shown that the applicant has failed to comply with this act.

SEC. 7. That where an adverse claim shall be filed during the period of publication, it shall be upon oath of the person or persons making the same, and shall show the nature, boundaries, and extent of such adverse claim, and all proceedings, except the publication of notice and making and filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to



determine the question of right of possession, and prosecute the same with reasonable diligence to final judgment, and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the register of the land office, together with the certificate of the surveyor-general that the requisite amount of labor has been expended, or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the commissioner of the general land office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant may appear, from the decision of the court, to rightly possess. If it shall appear from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor-general, whereupon the register shall certify the proceedings and judgement-roll to the commissioner of the general land office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Proof of citizenship under this act, or the acts of July twenty-sixth, eighteen hundred and sixty-six, and July ninth, eighteen hundred and seventy, in the case of an individual, may consist of his own affidavit thereof, and in case of an association of persons unincorporated of the affidavit of their authorized agent, made on his own knowledge or upon information and belief, and in case of a corporation organized under the laws of the United States, or of any State or Territory of the United States, by the filing of a certified copy of the charter or certificate of incorporation; and nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining claim to any person whatever.

SEC. 8. That the description of vein or lode claims upon surveyed lands, shall designate the location of the claim with ref-



ence to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued as aforesaid for claims upon unsurveyed lands, the surveyor-general, in extending the surveys, shall adjust the same to the boundaries of such patented claim, according to the plat or description thereof, but so as in no case to interfere with or change the location of any such patented claim.

SEC. 9. That sections one, two, three, four, and six of an act entitled "An Act granting the right of way to ditch and canal owners over the public lands and for other purposes," approved July twenty sixth, eighteen hundred and sixty-six, are hereby repealed, but such repeal shall not affect existing rights. Applications for patents for mining claims now pending may be prosecuted to a final decision in the general land office; but in such cases where adverse rights are not affected thereby, patents may issue in pursuance of the provisions of this act; and patents for mining claims heretofore issued under the act of July twenty-sixth, eighteen hundred and sixty-six, shall convey all the rights and privileges conferred by this act where no adverse rights exist at the time of the passage of this act.

SEC. 10. That the act entitled "An Act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July ninth, eighteen hundred and seventy, shall be and remain in full force, except as to the proceedings to obtain a patent, which shall be similar to the proceedings prescribed by sections six and seven of this act for obtaining patents to vein or lode claims; but where said placer claims shall be upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims hereafter located shall conform as near as practicable with the United States system of public land surveys and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant, but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands: *Provided*, That proceedings now pending may be prosecuted to their final determination under existing laws, but the provisions of this act, when not in

conflict with existing laws, shall apply to such cases: *And provided also*, That where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, said fractional portion of agricultural land may be entered by any party qualified by law, for homestead or pre-emption purposes.

SEC. 11. That where the same person, association or corporation is in possession of a placer claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer claim, with the statement that it includes such vein or lode, and in such case (subject to the provisions of this act and the act entitled "An Act to amend an act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July ninth, eighteen hundred and seventy,) a patent shall issue for the placer claim, including such vein or lode, upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer claim, or any placer claim not embracing any vein or lode claim, shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as is described in the second section of this act, is known to exist within the boundaries of a placer claim, an application for a patent for such placer claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer claim is not known, a patent for the placer claim shall convey all valuable mineral and other deposits within the boundaries thereof.

SEC. 12. That the surveyor-general of the United States may appoint in each land district containing mineral lands as many competent surveyors as shall apply for appointment to survey mining claims. The expenses of the survey of vein or lode claims, and the survey and subdivision of placer claims into smaller quantities than one hundred and sixty acres, together with the cost of publication of notices, shall be paid by

the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The commissioner of the general land office shall also have power to establish the maximum charges for surveys and publication of notices under this act; and, in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated for the publication of mining notices in such district, and fix the rates to be charged by such paper; and, to the end that the commissioners may be fully informed on the subject, each applicant shall file with the register a sworn statement of all charges and fees paid by said applicant for publication and surveys, together with all fees and money paid the register and the receiver of the land office, which statement shall be transmitted, with the other papers in the case, to the Commissioner of the general land office. The fees of the register and the receiver shall be five dollars each for filing and acting upon each application for patent or adverse claim filed, and they shall be allowed the amount fixed by law for reducing testimony to writing, when done in the land office, such fees and allowances to be paid by the respective parties, and no other fees shall be charged by them in such cases. Nothing in this act shall be construed to enlarge or affect the rights of either party in regard to any property in controversy at the time of the passage of this act, or of the act entitled "An Act granting the right of way to ditch and canal owners over the public lands, and for other purposes," approved July twenty-sixth, eighteen hundred and sixty-six, nor shall this act affect any right acquired under said act; and nothing in this act shall be construed to repeal, impair, or in any way affect the provisions of the act entitled "An Act granting to A. Sutro the right of way and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July twenty-fifth, eighteen hundred and sixty-six.

SEC. 13. That all affidavits required to be made under this act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land

district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and receiver of the land office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if said party cannot be found, then by publication of at least once a week for thirty days in a newspaper, to be designated by the register of the land office as published nearest to the location of such land, and the register shall require proof that such notice has been given.

SEC. 14. That where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection: *Provided, however,* That the subsequent location shall have the right of way through said space of intersection for the purposes of the convenient working of the said mine: *And, provided also,* That where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

SEC. 15. That where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable under this act to veins or lodes: *Provided,* That no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this act for the superficies of the lode. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his mill-site, as provided in this section.

SEC. 16. That all acts and parts of acts inconsistent herewith are hereby repealed: *Provided,* That nothing contained in



this act shall be construed to impair in any way, rights or interests in mining property acquired under existing laws.

Approved May 10, 1872.

---

### AN ACT

To amend an act entitled "An Act to promote the development of the mining resources of the United States,"

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

That the provisions of the fifth section of the act entitled "An act to promote the development of the mining resources of the United States," passed May tenth, eighteen hundred and seventy-two, which requires expenditures of labor and improvements on claims located prior to the passage of said act, are hereby so amended that the time for the first annual expenditure on claims located prior to the passage of said act shall be extended to the tenth day of June, eighteen hundred and seventy-four.

Approved, March 1, 1873.

---

## CONSTRUCTION OF THE MINING LAW BY THE GENERAL LAND OFFICE.

---

1. It will be perceived that the first section of said act leaves the mineral lands in the public domain, surveyed or unsurveyed, open to exploration, occupation, and purchase, by all citizens of the United States, and all those who have declared their intention to become such.



## STATUS OF LODE CLAIMS PREVIOUSLY LOCATED.

2. By an examination of the several sections of the foregoing act, it will be seen that the *status* of lode claims located *previous* to the date thereof, is not changed with regard to their *extent along the lode or width of surface*, such claims being restricted and governed, both as to their *lateral and linear* extent, by the State, Territorial, or local laws, customs, or regulations, which were in force in the respective districts at the date of such locations, in so far as the same did not conflict with the limitations fixed by the mining statute of July 26, 1866. (14 Stat., 251.)

3. Mining rights acquired under such previous locations are, however, enlarged by said act of May 10, 1872, in the following respect, viz: The locators of all such previously taken veins or lodes, their heirs and assigns, so long as they comply with the laws of Congress and with State, Territorial, or local regulations, not in conflict therewith, governing mining claims, are invested by said act with the exclusive possessory right of all the surface included within the lines of their locations, and of all veins, lodes or ledges throughout their entire depth, the top or apex of which lies inside of such surface-lines extended downward vertically, although such veins, lodes or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of such locations at the surface, it being expressly provided, however, that the right of possession to such outside parts of said veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as aforesaid, through the end-lines of their locations so continued in their own direction that such planes will intersect such exterior parts of such veins, lodes or ledges, no right being granted, however, to the claimant of such outside portion of a vein or ledge to enter upon the surface location of another claimant.

4. It is to be distinctly understood, however, that the law limits the possessory right to veins, lodes or ledges *other* than the one named in the original location, to such as were not *adversely claimed at the date of said act of May 10, 1872*, and that where

such other vein or ledge was so adversely claimed at that date, the right of the party so adversely claiming is in no way impaired by said act.

5. From and after the date of said act of Congress, in order to hold the possessory title to a mining claim *previously located*, and for which a patent has not been issued, the law requires that *ten dollars* shall be expended annually in labor or improvements on each claim of *one hundred feet* on the course of the vein or lode until a patent shall have been issued therefor; but where a number of such claims are held in common upon the same vein or lode the aggregate expenditure that would be necessary to hold all the claims, at the rate of ten dollars per hundred feet, may be made upon any one claim; a failure to comply with this requirement in any one year subjecting the claim upon which such failure occurred to relocation by other parties, the same as if no previous location thereof had ever been made, unless the claimants under the original location shall have resumed work thereon after such failure and before such relocation.

6. Upon the failure of any one of the several co-owners of a vein, lode or ledge, which has not been patented, to contribute his proportion of the expenditures necessary to hold the claim or claims so held in ownership in common, the co-owners who have performed the labor or made the improvements as required by said act, may, at the expiration of the year, give such delinquent co-owner personal notice in writing, or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days; and if upon the expiration of ninety days after such notice in writing, or upon the expiration of one hundred and eighty days after the first newspaper publication of notice, the delinquent co-owner shall have failed to contribute his proportion to meet such expenditure or improvements, his interest in the claim by law passes to his co-owners who have made the expenditures or improvements as aforesaid.

#### PATENTS FOR VEINS OR LODES HERETOFORE ISSUED.

7. Rights under patents for veins or lodes heretofore granted

under previous legislation of Congress are enlarged by this act, so as to invest the patentee, his heirs or assigns, with title to all veins, lodes or ledges throughout their entire depth, the top or apex of which lies within the end and side boundary lines of his claim on the surface, as patented, extended downward vertically, although such veins, lodes or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of the claim at the surface. The right of possession to such outside parts of such veins or ledges to be confined to such portions thereof as lie between vertical planes drawn downward through the end-lines of the claim at the surface, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges, it being expressly provided, however, that all veins, lodes or ledges, the top or apex of which lies inside such surface locations *other* than the one named in the patent, which were *adversely claimed* at the date of said act, are excluded from such conveyance by patent.

8. Applications for patents for mining claims pending at the date of the act of May 10, 1872, may be prosecuted to final decision in the general land office, and where no adverse rights are affected thereby, patents will be issued in pursuance of the provisions of said act.

MANNER OF LOCATING CLAIMS ON VEINS OR LODES AFTER THE  
PASSAGE OF THE ACT OF MAY 10, 1872.

9. From and after the date of said act, any person who is a citizen of the United States, or who has declared his intention to become a citizen, may locate, record and hold a mining claim of *fifteen hundred linear feet* along the course of any mineral vein or lode subject to location; or an association of persons, severally qualified as above, may make joint location of such claim of *fifteen hundred feet*, but in no event can a location of a vein or lode made subsequent to the act exceed fifteen hundred feet along the course thereof, whatever may be the number of persons composing the association.

10. With regard to the extent of surface ground adjoining a vein or lode, and claimed for the convenient working thereof,

the act provides that the lateral extent of locations of veins or lodes made after its passage shall in no case *exceed three hundred feet on each side of the middle of the vein at the surface*, and that no such surface rights shall be limited by any mining regulations to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing at the date of said act may render such limitation necessary, the end-lines of such claims to be in all cases parallel to each other.

11. By the foregoing it will be perceived that no lode claim located after the date of said act can exceed a parallelogram fifteen hundred feet in length by six hundred feet in width, but whether surface-ground of that width can be taken, depends upon the local regulations or State or Territorial laws in force in the several mining districts; and that no such local regulations or State or Territorial laws shall limit a vein or lode claim to less than fifteen hundred feet along the course thereof, whether the location is made by one or more persons, nor can surface rights be limited to less than fifty feet in width, unless adverse claims existing on the 10th, day of May, 1872, render such lateral limitation necessary.

12. It is provided in said act that the miners of each district may make rules and regulations not in conflict with the laws of the United States, or of the State or Territory in which such districts are respectively situated, governing the location, manner of recording, and amount of work necessary to hold possession of a claim. It likewise requires that the location must be so distinctly marked on the ground that its boundaries may be readily traced. This is a very important matter, and locators cannot exercise too much care in defining their locations at the outset, inasmuch as the law requires that all records of mining locations made subsequent to its passage shall contain the name or names of the locators, the date of the location, and such a *description of the claim or claims* located, by reference to some natural object or permanent monument, as will identify the claim.

13. That said act requires that no lode-claim can be recorded until after the discovery of a vein or lode within the limits of



the ground claimed; the object of which provision is evidently to prevent the encumbering of the district mining record with useless locations before sufficient work has been done thereon to determine whether a vein or lode has really been discovered or not.

14. The claimant should, therefore, prior to recording his claim, unless the vein can be traced upon the surface, sink a shaft, or run a tunnel or drift to a sufficient depth therein to discover and develop a mineral-bearing vein, lode or crevice; should determine, if possible, the general course of such vein in either direction from the point of discovery, by which direction he will be governed in marking the boundaries of his claim on the surface, and should give the course and distance as nearly as practicable from the discovery shaft on the claim to some permanent, well-known points or objects, such, for instance, as stone monuments, blazed trees, the confluence of streams, point of intersection of well-known gulches, ravines or road, prominent buttes, hills, &c., which may be in the immediate vicinity, and which will serve to perpetuate and fix the *locus* of the claim and render it susceptible of identification from the description thereof given in the record of locations in the distsict.

15. In addition to the foregoing data, the claimant should state the names of adjoining claims, or if none adjoin, the relative positions of the nearest claims; should drive a post or erect a monument of stones at each corner of his surface-ground, and at the point of discovery or discovery shaft; should fix a post, stake or board, upon which should be designated the name of the lode, the name or names of the locators, the number of feet claimed, and in which direction from the point of discovery, it being essential that the location notice filed for record, in addition to the foregoing description, should state whether the entire claim of fifteen hundred feet is taken on one side of the point of discovery, or whether it is partly upon one and partly upon the other side thereof, and in the latter case, how many feet are claimed upon each side of such discovery point.

16. Within a reasonable time, say twenty days after the lo-



cation shall have been marked on the ground, notice thereof, accurately describing the claim in manner aforesaid, should be filed for record with the proper recorder of the district, who will thereupon issue the usual certificate of location.

17. In order to hold the possessory right to a claim of fifteen hundred feet of a vein or lode located as aforesaid, the act requires that until a patent shall have been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made thereon during each year, in default of which the claim shall be subject to relocation by any other party having the necessary qualifications, unless the original locator, his heirs, assigns or legal representatives, have resumed work thereon after such failure and before such relocation.

18. The importance of attending to these details in the matter of location, labor and expenditure will be more readily perceived when it is understood that a failure to give the subject proper attention may invalidate the claim.

#### TUNNEL RIGHTS.

19. The fourth section of the act provides that where a tunnel is run for the development of a vein or lode or for the discovery of mines, the owners of such tunnel shall have the right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel and while the same is being prosecuted with reasonable diligence, shall be invalid, but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins or lodes on the line of said tunnel.

20. The effect of this section is simply to give the proprietors of a mining tunnel run in good faith the possessory right to fifteen hundred feet of any blind lodes cut, discovered or in-

tersected by such tunnel, which were not previously known to exist within three thousand feet from the face or point of commencement of such tunnel, and to prohibit other parties after the commencement of the tunnel from prospecting for and making locations of lodes on the line thereof, and within said distance of three thousand feet, unless such lodes appear upon the surface or were previously known to exist.

21. The term "face," as used in said section, is construed and held to mean the first working face formed in the tunnel, and to signify the point at which the tunnel actually enters cover, it being from this point that the three thousand feet are to be counted, upon which prospecting is prohibited as aforesaid.

22. To avail themselves of the benefits of this provision of law, the proprietors of a mining tunnel will be required, at the time they enter cover as aforesaid, to give proper notice of their tunnel location, by erecting a substantial post, board, or monument, at the face or point of commencement thereof, upon which should be posted a good and sufficient notice, giving the names of the parties or company claiming the tunnel right; the actual or proposed course or direction of the tunnel; the height and width thereof, and the course and distance from such face or point of commencement to some permanent, well-known objects in the vicinity, by which to fix and determine the *locus* in manner heretofore set forth applicable to locations of veins or lodes, and at the time of posting such notice, they shall, in order that miners or prospectors may be enabled to determine whether or not they are within the lines of the tunnel, establish the boundary lines thereof by stakes or monuments placed along such lines, at proper intervals, to the terminus of the three thousand feet from the face or point of commencement of the tunnel, and the lines so marked will define and govern, as to the specific boundaries within which prospecting for lodes not previously known to exist, is prohibited while work on the tunnel is being prosecuted with reasonable diligence.

23. At the time of posting notice and marking out the lines of the tunnel as aforesaid, a full and correct copy of such notice of location, defining the tunnel claim, must be filed for

record with the mining recorder of the district, to which notice must be attached the sworn statement or declaration of the owners, claimants, or projectors of such tunnel, setting forth the facts in the case; stating the amount expended by themselves and their predecessors in interest, in prosecuting work thereon; the extent of the work performed, and that it is *bona fide* their intention to prosecute work on the tunnel so located and described, with reasonable diligence, for the development of a vein or lode, or for the discovery of mines, or both, as the case may be.

24. This notice of location must be duly recorded, and, with the said sworn statement attached, kept on the recorder's files for future reference.

25. By a compliance with the foregoing, much needless difficulty will be avoided, and the way for the adjustment of legal rights acquired in virtue of said fourth section of the act will be made much more easy and certain.

26. This office will take particular care that no improper advantage is taken of this provision of law by parties making or professing to make tunnel locations, ostensibly for the purposes named in the statute, but really for the purpose of monopolizing the lands lying in front of their tunnels to the detriment of the mining interests, and to the exclusion of *bona fide* prospectors or miners; but will hold such tunnel claimants to a strict compliance with the terms of the act; and as *reasonable diligence* on their part in prosecuting the work is one of the essential conditions of their implied contract, negligence or want of due diligence will be construed as working a forfeiture of their right to all undiscovered veins on the line of such tunnel.

#### MANNER OF PROCEEDING TO OBTAIN GOVERNMENT TITLE TO VEIN OR LODE CLAIMS.

27. By the sixth section of said act, authority is given for granting title for mines by patent from the Government to any person, association, or corporation, having the necessary qualifications as to citizenship, and holding the right of possession to a claim in compliance with law.



28. The claimant is required, in the first place, to have a correct survey of his claim made under authority of the surveyor general of the State or Territory in which the claim lies; such survey to show with accuracy the exterior surface boundaries of the claim, which boundaries are required to be distinctly marked by monuments on the ground.

29. The claimant is then required to post a copy of the plat of such survey in a conspicuous place upon the claim, together with notice of his intention to apply for a patent therefor, which notice will give the date of posting, the name of the claimant, the name of the claim, mine, or lode, the mining district or county; whether the location is of record and if so, where the record may be found; the number of feet claimed along the vein, and the presumed direction thereof; the number of feet claimed on the lode in each direction from the point of discovery, or other well defined place on the claim the name or names of adjoining claimants on the same or other lodes, or if none adjoin, the names of the nearest claims, &c.

30. After posting the said plat and notice upon the premises, the claimant will file with the proper register and receiver, a copy of such plat, and the field notes of survey of the claim accompanied by the affidavit of at least two credible witnesses, that such plat and notice are posted conspicuously upon the claim, giving the date and place of such posting; a copy of the notice so posted to be attached to, and form a part of, said affidavit.

31. Attached to the field notes so filed, must be the sworn statement of the claimant that he has the possessory right to the premises therein described, in virtue of a compliance, by himself, (and by his grantors, if he claims by purchase,) with the mining rules, regulations, and customs, of the mining district, State, or Territory, in which the claim lies, and with the mining laws of Congress; such sworn statement to narrate briefly but as clearly as possible, the facts constituting such compliance, the origin of his possession, and the basis of his claim to a patent.

32. This affidavit should be supported by appropriate evidence from the mining recorder's office, as to his possessory

right, as follows, viz: Where he claims to be a locator, a full, true, and correct copy of such location should be furnished, as the same appears upon the mining records; such copy to be attested by the seal of the recorder, or, if he has no seal, then he should make oath to the same being correct, as shown by his records; where the applicant claims as a locator, in company with others, who have since conveyed their interest in the lode to him, a copy of the original record of location should be filed, together with an abstract of title from the proper recorder, under seal or oath as aforesaid, tracing the locator's possessory rights in the claim, to such applicant for patent: where the applicant claims only as a purchaser for valuable consideration, a copy of the location record must be filed, under seal or upon oath as aforesaid, with an abstract of title certified as above, by the proper recorder, tracing the right of possession by a continuous chain of conveyances, from the original locators to the applicant.

33. In the event of the mining records in any case having been destroyed by fire, or otherwise lost, affidavit of the fact should be made, and secondary evidence of possessory title will be received, which may consist of the affidavit of the claimant, supported by those of any other parties cognizant of the facts relative to his location, occupancy, possession, improvements, &c.; and in such case of lost records, any deeds, certificates of location or purchase, or other evidence which may be in the claimant's possession, and tend to establish his claim, should be filed.

34. Upon the receipt of these papers the register will at the expense of the claimant, publish a notice of such application for the period of sixty days, in a newspaper published nearest to the claim, and will post a copy of such notice in his office for the same period.

35. The notices so published must be as full and complete as possible, and embrace all the data given in the notice posted upon the claim.

36. Too much care cannot be exercised in the preparation of these notices, inasmuch as upon their accuracy and completeness will depend, in a great measure, the regularity and validity of the whole proceeding.



37. The claimant, either at the time of filing these papers with the register, or at any time during the sixty days' publication, is required to file a certificate of the surveyor general that not less than five hundred dollars' worth of labor has been expended or improvements made upon the claim by the applicant or his grantors; that the plat filed by the claimant is correct; that the field notes of the survey, as filed, furnish such an accurate description of the claim as will, if incorporated into a patent, serve to fully identify the premises, and that such reference is made therein to natural objects or permanent monuments as will perpetuate and fix the *locus* thereof.

38. It will be the more convenient way to have this certificate indorsed by the surveyor-general, both upon the plat and field-notes of survey filed by the claimant as aforesaid.

39. After the period of sixty days' of newspaper publication has expired the claimant will file his affidavit, showing that the plat and notice aforesaid remained conspicuously posted upon the claim sought to be patented during said sixty days' publication.

40. Upon the filing of this affidavit the register will, if no adverse claim was filed in his office during the period of publication, permit the claimant to pay for the land according to the area given in the plat and field-notes of survey aforesaid, at the rate of five dollars for each acre and five dollars for each fractional part of an acre, the receiver issuing the usual duplicate receipt therefor; after which the whole matter will be forwarded to the commissioner of the general land office and a patent issued thereon if found regular.

41. In sending up the papers in the case the register must not omit certifying to the fact that the notice was posted in his office for the full period of sixty days, such certificate to state distinctly when such posting was done and how long continued.

42. The consecutive series of numbers of mineral entries must be continued, whether the same are of lode or placer claims.

43. The surveyor-general must continue to designate all surveyed mineral claims as heretofore by a progressive series of

numbers, beginning with lot No. 37 in each township; the claim to be so designated at date of filing the plat, field notes, etc., in addition to the local designation of the claim; it being required in all cases that the plat and field-notes of the survey of a claim must, in addition to the reference to permanent objects in the neighborhood, describe the *locus* of the claim with reference to the lines of public surveys by a line connecting a corner of the claim with the nearest public corner of the United States surveys, unless such claim be on unsurveyed lands at a remote distance from such public corner; in which latter case the reference by course and distance to permanent objects in the neighborhood will be a sufficient designation by which to fix the *locus* until the public surveys shall have been closed upon its boundaries.

#### ADVERSE CLAIMS.

44. The seventh section of the act provides for adverse claims; fixes the time within which they shall be filed to have legal effect, and prescribes the manner of their adjustment.

45. Said section requires that the adverse claim shall be filed during the period of publication of notice; that it must be on the oath of the adverse claimant; and that it must show the nature, the boundaries, and the extent of the adverse claim.

46. In order that this section of law may be properly carried into effect, the following is communicated for the information of all concerned:

47. An adverse mining claim must be filed with the register of the same land office with whom the application for patent was filed, or, in his absence, with the receiver, and within the sixty days period of newspaper publication of notice.

48. The adverse notice must be duly sworn to before an officer authorized to administer oaths within the land-district, or before the register or receiver; it will fully set forth the nature and extent of the interference or conflict; whether the adverse party claims as a purchaser for valuable consideration, or as a locator; if the former, the original conveyance, or a duly certified copy thereof, should be furnished, or if the

transaction was a mere verbal one he will narrate the circumstance attending the purchase, the date thereof, and the amount paid, which facts should be supported by the affidavit of one or more witnesses, if any were present at the time, and if he claims as a locator he must file a duly certified copy of the location from the office of the proper recorder.

49. In order that the boundaries and extent of the claim may be shown, it will be incumbent upon the adverse claimant to file a plat showing his claim and its relative situation or position with the one against which he claims, so that the extent of the conflict may be understood. This plat must be made from an actual survey, by a United States deputy surveyor, who will officially certify thereon to its correctness; and in addition there must be attached to such plat of survey a certificate or sworn statement by the surveyor, as to the approximate value of the labor performed or improvements made upon the claim of the adverse party, and the plat must indicate the position of any shafts, tunnels or other improvements, if any such exist upon the claim of the party opposing the application.

50. Upon the foregoing being filed within the sixty days as aforesaid, the register, or in his absence the receiver, will give notice in writing to both parties to the contest that such adverse claim has been filed, informing them that the party who filed the adverse claim will be required, within thirty days from the date of such filing, to commence proceedings in a court of competent jurisdiction, to determine the question of right of possession, and to prosecute the same with reasonable diligence to final judgment, and that should such adverse claimant fail to do so his adverse claim will be considered waived, and the application for patent be allowed to proceed upon its merits.

51. When an adverse claim is filed as aforesaid, the register or receiver will indorse upon the same the precise date of filing, and preserve a record of the date of notifications issued thereon; and thereafter all proceedings on the application for patent will be suspended, with the exception of the completion of the publication and posting of notices and plat, and the filing of the necessary proof thereof, until the controversy

shall have been adjudicated in court, or the adverse claim waived or withdrawn.

52. The proceedings after rendition of judgment by the court, in such case, are so clearly defined by the act itself, as to render it unnecessary to enlarge thereon in this place.

#### PLACER CLAIMS.

53. The tenth section of the act under consideration provides "that the act entitled 'An act to amend an act granting the right of way to ditch and canal owners, over the public lands, and for other purposes,' approved July 9, 1870, shall be and remain in full force, except as to the proceedings to obtain a patent, which shall be similar to the proceedings prescribed by sections six and seven of this act, for obtaining patents for vein or lode claims, but where said placer claims shall be upon surveyed lands and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims hereafter located, shall conform, as nearly as practicable, with the United States system of public land surveys, and the rectangular subdivisions of such surveys, and no such locations shall include more than twenty acres for each individual claimant; but where placer claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands," &c.

54. The proceedings for obtaining patents for veins or lodes having already been fully given, it will not be necessary to repeat them here; it being thought that careful attention thereto by applicants and the local officers, will enable them to act understandingly in the matter, and make such slight modifications in the notice, or otherwise, as may be necessary in view of the different nature of the two classes of claims placer claims being fixed, however, at two dollars and fifty cents per acre, or fractional part of an acre.

\* \* \* \* \*

56. It will be observed that that portion of the first proviso to the twelfth section which requires placer-claims upon surveyed lands to conform to legal subdivisions, is repealed by the



present statute with regard to claims heretofore located, but that where such claims are located previous to survey and do not conform to legal subdivisions, survey, plat and entry thereof may be made according to the boundaries fixed by local rules, but that where such claims do conform to legal subdivisions, the entry may be effected according to such legal subdivisions, without the necessity of further survey or plat.

57. In the second proviso to the twelfth section authority is given for the subdivision of forty-acre legal subdivisions into *ten-acre* lots, which is intended for the greater convenience of miners in segregating their claims both from one another and from intervening agricultural land.

58. It is held, therefore, that under a proper construction of the law these ten-acre lots in mining districts should be considered and dealt with, to all intents and purposes, as legal subdivisions, and that an applicant having a legal claim which conforms to one or more of these ten-acre lots, either adjoining or cornering, may make entry thereof, after the usual proceedings, without further survey or plat.

59. In cases of this kind, however, the notice given of the application must be very specific and accurate in description and as the forty-acre tracts may be subdivided into ten-acre lots, either in the form of squares of ten by ten chains, or of parallelograms five by twenty chains, so long as the lines are parallel and at right angles with the lines of the public surveys, it will be necessary that the notice and application state specifically what ten-acre lots are sought to be patented, in addition to the other data required in the notice,

60. Where the ten-acre subdivision is in the form of a square, it may be described, for instance, as the "S. E.  $\frac{1}{4}$  of the S. W.  $\frac{1}{4}$  of the N. W.  $\frac{1}{4}$ ," or if in the form of a parallelogram as aforesaid, it may be described as the "W.  $\frac{1}{2}$  of the W.  $\frac{1}{2}$  of the S. W.  $\frac{1}{4}$  of the N. W.  $\frac{1}{4}$  (or the N.  $\frac{1}{2}$  of the S.  $\frac{1}{2}$  of the N. E.  $\frac{1}{4}$  of the S. E.  $\frac{1}{4}$ ) of section —, township —, range —," as the case may be; but, in addition to this description of the land, the notice must give all the other data that are required in a mineral application, by which parties may be put on inquiry as to the premises sought to be patented.



61. The proceedings necessary for the adjustment of rights where a known vein or lode is embraced by a placer-claim, are so clearly defined in the eleventh section of the act as to render any particular instructions upon that point at this time unnecessary.

62. When an adverse claim is filed to a placer application, the proceedings are the same as in the case of vein or lode claims, already described.

#### QUANTITY OF PLACER GROUND SUBJECT TO LOCATION.

63. By the twelfth section of the said amendatory act of July 9, 1870, (third proviso,) it is declared "that no location of a placer-claim hereafter made shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys," &c.

64. The tenth section of the act of May 10, 1872, provides that "all placer-mining claims hereafter located shall conform as near as practicable with the United States system of public-land surveys, and the rectangular subdivisions of such surveys, and no such locations shall include more than twenty acres for each individual claimant."

65. The foregoing provisions of law are construed to mean that after the 9th day of July, 1870, no location of a placer-claim can be made to exceed one hundred and sixty acres, whatever may be the number of locators associated together, or whatever the local regulations of the district may allow; and that from and after the passage of the act of May 10, 1872, no location made by an individual can exceed twenty acres, and no location made by an association of individuals can exceed one hundred and sixty acres, which location of one hundred and sixty acres cannot be made by a less number than eight *bona fide* locators, but that whether as much as twenty acres can be located by an individual, or one hundred and sixty acres by an association, depends entirely upon the mining regulations in force in the respective districts at the date of the location; it being held that such mining regulations are in no way enlarged by said acts of Congress, but remain intact and

in full force with regard to the size of locations, in so far as they do not permit locations in excess of the limits fixed by Congress, but that where such regulations permit locations in excess of the maximums fixed by Congress as aforesaid, they are restricted accordingly.

66. The regulations hereinbefore given as to the manner of marking locations on the ground, and placing the same on record, must be observed in the case of placer locations, so far as the same are applicable; the law requiring, however, that where placer-claims are upon surveyed public lands, the locations must hereafter be made to conform to legal subdivisions thereof.

67. With regard to the proofs necessary to establish the possessory right to a placer-claim, the said thirteenth section of the act of July 9, 1870, provides that "where said person or association, they and their grantors, shall have held and worked their said claims for a period equal to the time prescribed by the statute of limitations for mining claims for the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this act in the absence of any adverse claim."

68. This provision of law will greatly lessen the burden of proof, more especially in the case of old claims located many years since, the records of which, in many cases, have been destroyed by fire, or lost in other ways during the lapse of time, but concerning the possessory right to which all controversy or litigation has long been settled.

69. When an applicant desires to make proof of possessory right, in accordance with this provision of law, you will not require him to produce evidence of location, copies of conveyances, or abstracts of title, as in other cases, but will require him to furnish a duly certified copy of the statute or limitations of mining claims for the State or Territory, together with his sworn statement giving a clear and succinct narration of the facts as to the origin of his title, and likewise as to the continuation of his possession of the mining ground covered by his application; the area thereof, the nature and extent of the

mining that has been done thereon; whether there has been any opposition to his possession or litigation with regard to his claim, and if so, when the same ceased; whether such cessation was caused by compromise or by judicial decree, and any additional facts, within the claimants knowledge having a direct bearing upon his possession and *bona fides* which he may desire to submit in support of his claim.

70. There should likewise be filed a certificate under seal of the court having jurisdiction of mining cases within the judicial district embracing the claim, that no suit or action of any character whatever, involving the right of possession to any portion of the claim applied for is pending, and that there has been no litigation before said court affecting the title to said claim or any part thereof, for a period equal to the time fixed by the statute of limitations for mining claims in the State or Territory as aforesaid, other than that which has been finally decided in favor of the claimant.

71. The claimant should support his narrative of facts relative to his possession, occupancy, and improvements, by corroborative testimony of any disinterested person or persons of credibility, who may be cognizant of the facts in the case, and are capable of testifying understandingly in the premises.

72. It will be to the advantage of claimants to make their proofs as full and complete as practicable.

#### APPOINTMENT OF DEPUTY SURVEYORS OF MINING CLAIMS—CHARGES FOR SURVEYS AND PUBLICATIONS—FEES OF REGISTERS AND RECEIVERS, ETC.

73. The twelfth section of the said act of May 10, 1872, provides for the appointment of surveyors of mineral claims, authorizes the Commissioner of the General Land Office to establish the rates to be charged for surveys and for newspaper publications, prescribes the fees allowed to the local officers for receiving and acting upon applications for mining patents and for adverse claims thereto, etc.

74. The surveyors general of the several districts, will, in pursuance of said law, appoint in each land district as many

competent deputies for the survey of mining claims as may seek such appointment; it being distinctly understood that all expenses of these notices and surveys are to be borne by the mining claimants and not by the United States; the system of making deposits for mineral surveys, as required by previous instructions, being hereby revoked as regards field work; the claimant having the option of employing any deputy surveyor within such district to do his work in the field.

75. With regard to the platting of the claim and other office work in the surveyor-general's office, that officer will make an estimate of the cost thereof, which amount the claimant will deposit with any assistant United States Treasurer, or designated depository, in favor of the United States Treasurer, to be passed to the credit of the fund created by "individual depositors for surveys of the public lands," and file with the surveyor-general duplicate certificates of such deposit in the usual manner.

76. The surveyors general will endeavor to appoint mineral deputy surveyors, as rapidly as possible, so that one or more may be located in each mining district for the greater convenience of miners.

77. The usual oaths will be required of these deputies and their assistants as to the correctness of each survey executed by them.

78. The law requires that each applicant shall file with the register and receiver a sworn statement of all charges and fees paid by him for publication of notice and for survey, together with all fees and money paid the register and receiver, which sworn statement is required to be transmitted to this office for the information of the commissioner.

79. Should it appear that excessive or exorbitant charges have been made by any surveyor or any publisher, prompt action will be taken with the view of correcting the abuse.

80. The fees payable to the register and receiver, for filing and acting upon applications for mineral land patents, made under said act of May 10, 1872, are five dollars to each officer, to be paid by the applicant for patent at the time of filing, and the like sum of five dollars is payable to each officer by an adverse claimant at the time of filing his adverse claim.



81. All fees or charges under this act, or the acts of which it is amendatory, may be paid in United States currency.

82. The register and receiver will, at the close of each month forward to this office an abstract of mining applications filed, and a register of receipts, accompanied with an abstract of mineral lands sold.

83. The fees and purchase money received by registers and receivers must be placed to the credit of the United States in the receiver's monthly and quarterly account, charging up in the disbursing account the sums to which the register and receiver may be respectively entitled as fees and commissions, with limitations in regard to the legal maximum.

84. The thirteenth section of the said act of May 10, 1872, provides that all affidavits required under said act, or the act of which it is amendatory, may be verified before any officer authorized to administer oaths within the land district where the claims may be situated, in which case they will have the same force and effect as if taken before the register or receiver, and that in cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken before any such officer on personal notice of at least ten days to the opposing party, or if said party cannot be found, then, after publication of notice for at least once a week for thirty days in a newspaper, to be designated by the register as published nearest to the location of such land, proof of which notice must be made to the register.

85. The instructions heretofore issued with regard to disproving the mineral character of lands are accordingly modified so as to allow proof upon that point to be taken before any officer authorized to administer oaths within the land district, and that where the residence of the parties who claim the land to be mineral is known, such evidence may be taken without publication of ten days after the mineral claimants or affiants shall have been personally notified of the time and place of such hearing; but in cases where such affiants or claimants cannot be served with personal notice, or where the land applied for is returned as mineral upon the township plat or where the same is now or may hereafter be suspended for

non-mineral proof, by order of this office, then the party who claims the right to enter the land as agricultural will be required, at his own expense, to publish a notice once each week for five consecutive weeks in the newspaper of largest circulation published in the county in which said land is situated, or if no newspaper is published within such county, then in a newspaper published in an adjoining county, the newspaper in either case to be designated by the register, which notice must be clear and specific, embracing the points required in notices under instructions from this office of March 20, 1872, and must name a day after the last day of publication of such notice, when testimony as to the character of the land will be taken, stating before what magistrate or other officer such hearing will be had, and the place of such hearing.

#### MILL SITES.

86. The fifteenth section of said act provides, "That where non-mineral land, not contiguous to the vein or lode, is used or occupied by the proprietor of such vein or lode, for mining or milling purposes, such non-adjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable under this act to veins or lodes: *Provided*, That no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this act for the superficies of the lode. The owner of the quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his mill-site as provided in this section.

87. To avail themselves of this provision of law, parties holding the possessory right to a vein or lode, and to a piece of land not contiguous thereto, for mining or milling purposes, not exceeding the quantity allowed for such purposes by the local rules, regulations or customs, the proprietors of such vein or lode may file in the proper land office their application for

a patent, under oath, in manner already set forth herein, which application, together with the plat and field-notes, may include, embrace, and describe in addition to the vein or lode, such non-contiguous mill-site, and after due proceedings as to notice, &c., a patent will be issued conveying the same as one claim.

88. In making the survey in a case of this kind, the lode claim should be described in the plat and field notes as "Lot No. 37, A," and the mill-site as "Lot No. 37, B," or whatever may be its appropriate numerical designation; the course and distance from a corner of the mill-site to a corner of the lode claim to be invariably given in such plat and field-notes, and a copy of the plat and notice of application for patent must be conspicuously posted upon the mill-site as well as upon the vein or lode for the statutory period of sixty days. In making the entry, no separate receipt or certificate need be issued for the mill-site, but the whole area of both lode and mill-site will be embraced in one entry, the price being five dollars for each acre and fractional part of an acre embraced by such lode and mill-site claim.

89. In case the owner of a quartz mill or reduction works is not the owner or claimant of a vein or lode, the law permits him to make application therefor in the same manner prescribed herein for mining claims, and after due notice and proceedings, in the absence of a valid adverse filing, to enter and receive a patent for his mill-site at said price per acre.

90. In every case there must be satisfactory proof that the land claimed as a mill-site is not mineral in character, which proof may, where the matter is unquestioned, consist of the sworn statement of the claimant, supported by that of one or more disinterested persons capable from acquaintance with the land to testify understandingly.

91. The law expressly limits mill-site locations made from and after its passage to five acres, but whether so much as that can be located depends upon the local customs, rules or regulations.

92. The registers and receivers will preserve an unbroken consecutive series of numbers for all mineral entries.

## PROOF OF CITIZENSHIP OF MINING CLAIMANTS.

93. The proof necessary to establish the citizenship of applicants for mining patents, whether under the present or past enactments, it will be seen by reference to the seventh section of the act under consideration, may consist, in the case of an individual claimant, of his own affidavit of the fact; in the case of an association of persons not incorporated, of the affidavit of their authorized agent, made on his own knowledge or upon information and belief that the several members of such association are citizens; and in the case of an incorporated company, organized under the laws of the United States, or the laws of any State or Territory of the United States, by the filing of a certified copy of their charter or certificate of incorporation.

94. These affidavits of citizenship may be taken before the register or receiver, or any other officer authorized to administer oaths within the district.

95. Copies of the previous mining statutes of Congress, dated respectively July 26, 1866, and July 9, 1870, are hereto attached. Sections one, two, three, four, and six, of the former, being expressly repealed by the ninth section of the act of May 10, 1872, aforesaid, which in its sixteenth section also repeals all acts and parts of acts inconsistent with its provisions.

96. The foregoing will be followed in due time by such further instructions as actual experience in the administration of the statute may render necessary.

Very respectfully, your obedient servant,

WILLIS DRUMMOND,

*Commissioner.*

To REGISTERS and RECEIVERS, and SURVEYORS GENERAL.



## HOW TO OBTAIN TITLES TO MINES.

---

### CONDENSED INSTRUCTIONS FROM THE CENTRAL CITY LAND OFFICE.

Whenever five hundred dollars have been expended in improving a mine, its owners may proceed to obtain a title in fee simple from the United States. To do this, the owner or agent must deposit a fee of sixteen dollars with the surveyor-general of the Territory, and make an application for a survey, giving the name of the lode, the number of feet for which a patent is asked, and name of district and county in which it is located. A survey of the mine is then made by any deputy United States surveyor, (and for this purpose any competent surveyor may be appointed deputy surveyor,) who must submit a plat of the mine to the surveyor-general of the Territory, and if approved, and found correct by the latter, he also, upon information of the deputy, certifies that the claim is improved to the amount of five hundred dollars, and transmits it to the local land office. An abstract of title with full copy of certificate of location certified to by the county recorder, an affidavit of citizenship, or proof of having declared intention to become a citizen, (if the application is made by one or more individuals,) and proof of peaceable possession, the joint affidavit of two persons, (one of whom must be disinterested,) that the plat of the claim and notice of application for patent have been posted on the claim, an agreement of publishers, to hold the applicant alone responsible for payment, for the publication must be filed in the district land office. The notice of such application, containing a description of the mine according to the survey, must be published in some newspaper once each week, for sixty days.

## FINAL PROOF.

This consists of an affidavit, which may be made by the applicant, to the effect that the plat of the mine and notice of application for title were posted on the claim during the sixty days of publication; an affidavit showing the sums paid to the surveyor-general, deputy surveyor, publishers, and register and receiver of the local land office. An adverse claim must be filed if, at all, during the period of publication. In case the application is made by a company, no proof of citizenship is required, but instead, a certified copy of the certificate of incorporation must be filed.

The average cost of securing a government title in Gilpin and Boulder Counties is about one hundred and twenty-five dollars; in clear Creek County, it is about one hundred and fifty dollars, the difference being mainly owing to the more rugged character of the country.

# COAL LANDS AND TOWN SITE PROPERTY.

## AN ACT

For the Disposal of Coal Lands and Town Property in the Public Domain.

| SECTION   | SECTION  |
|---|--|
| 1. Disposal of coal lands and town property.                                | extension limit, how adjusted.   |
| 2. Town or city sites in public lands. City and town lots. Actual settlers. | 4. Surveys made and lots disposed of.                                    |
| 3. When established upon unsurveyed lands,                                  | 5. Regulations to carry act into effect. Repeal. Approved July, 1, 1864. |

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:*

SECTION 1. That where any tracts embracing coal-beds or coal-fields, constituting portions of the public domain, and which, as "mines," are excluded from the pre-emption act of eighteen hundred and forty-one, and which under past legislation are not liable to ordinary private entry, it shall and may be lawful for the President to cause such tracts, in suitable legal sub-divisions, to be offered at public sale to the highest bidder, after public notice of not less than three months, at a minimum price of twenty dollars per acre; and any lands not thus disposed of shall thereafter be liable to private entry at said minimum.

SEC. 2. *And be it further enacted,* That in any case in which parties have already founded, or may hereafter desire to found, a city or town on the public lands, it shall and may be lawful for them to cause to be filed with the recorder for the county in which the same is situated, a plat thereof for not exceeding six hundred and forty acres, describing its exterior boundaries according to the lines of the public surveys, where such surveys have been executed; also, giving the name of such city or town, and exhibiting the streets, squares, blocks, lots and alleys,

the size of the same, with measurements and area of each municipal sub-division, the lots in which shall not exceed four thousand two hundred square feet, with a statement of the extent and general character of the improvements, the said map and statement to be verified under oath by the party acting for and in behalf of the persons proposing to establish such city or town; and within one month after such filing there shall be transmitted to the general land office a verified transcript of such map and statement, accompanied by the testimony of two witnesses that such city or town has been established in good faith, and when the premises are within the limits of an organized land district, a similar map and statement shall be filed with the register and receiver, and at any time after the filing of such map, statement and testimony in the general land office, it shall and may be lawful for the President to cause the lots embraced within the limits of such city or town, to be offered at public sale to the highest bidder, subject to a minimum of ten dollars for each lot; and such lots as may not be disposed of at public sale shall thereafter be liable to private entry, at said minimum, or at such reasonable increase or diminution thereafter as the Secretary of the Interior may order from time to time, after at least three months' notice, in view of the increase or decrease in the value of the municipal property: *Provided*, That any actual settler upon any one lot as aforesaid and upon any additional lot in which he may have substantial improvements, shall be entitled to prove up and purchase the same as a pre-emption, at said minimum, at any time before the day fixed for the public sale.

SEC. 3. *And be it further enacted*, That when such cities or towns are established upon unsurveyed lands, it shall and may be lawful, after the extension thereto of the public surveys, to adjust the extension limits of the premises according to those lines, where it can be done without interference with the rights which may be vested by sale; and patents for all lots so disposed of at public or private sale shall issue as in ordinary cases.

SEC. 4. *And be it further enacted*, That if within twelve months from the establishment of a city or town as aforesaid in the public domain, the parties interested shall refuse or fail



to file in the general land office transcript map, with the statement and testimony called for by the provisions of the second section of this act, it shall and may be lawful for the Secretary of the Interior to cause a survey and plat to be made of such city or town, and thereafter the lots in the same shall be disposed of as required by said provisions, with this exception, that they shall each be at an increase of fifty per centum on the aforesaid minimum of ten dollars per lot.

SEC. 5. *And be it further enacted*, That effect shall be given to the foregoing act according to such regulations as may be prescribed by the Secretary of the Interior. The act entitled "An Act for the relief of the citizens of towns upon the lands of the United States under certain circumstances," approved May twenty-three, A. D. eighteen hundred and forty-four, and all other acts and parts of acts inconsistent with this act, be and the same are hereby repealed.

Approved July 1, 1864.

---

## AN ACT

Supplemental to the Act approved July 1, 1864, "For the Disposal of Coal Lands, and of Town Property in the Public Domain."

### SECTION

1. Citizens actually engaged in coal mining on public lands may enter 160 acres, at \$20 an acre, Description of premises, when to be filed. Proof and payment.

### SECTION

2. Town or city sites on the public lands. Minimum price of Lots. Mineral veins. No title recognized in possessors, etc.  
Approved March 3, 1935.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled:*

SECTION 1. That in the case of any citizen of the United States who, at the passage of this act, may be in the business of bona fide actual coal-mining on the public lands, except on lands reserved by the President of the United States for public uses for purposes of commerce, such citizen, upon making proof satisfactory to the register and receiver to that effect, shall have the right to enter, according to legal subdivisions, a quantity of land not exceeding one hundred and sixty acres, to embrace his improvements and mining premises, at the minimum price

of twenty dollars per acre, fixed in the coal and town property act of July first, eighteen hundred and sixty-four; *Provided*, That where the mining improvements and premises are on land surveyed at the passage of this act, a sworn declaratory statement descriptive of the tract and premises, showing also the extent and character of the improvements, shall be filed within six months from the date of this act, and proof and payment shall be made within one year from the date of such filing; but where such mining premises may be on lands hereafter to be surveyed, such declaratory statement shall be filed within three months from the return to the district land office of the official township plat, and proof and payment shall be made within one year from the date of such filing.

SEC. 2. *And be it further enacted*, That in the case of any city or town which at the passage of this act, may be existing on the public lands, in which the lots therein may be variant as to size from the limitation fixed in the said act of July first, eighteen hundred and sixty four, and in which the lots and buildings as municipal improvements shall cover an area greater than six hundred and forty acres, such variances as to size of lots or excess in area shall prove no bar to such city or town claim under said act of July first, eighteen hundred and sixty-four, effect to be given to this act according to such regulations as may be prescribed by the Secretary of the Interior; *Provided*, That the minimum price of each of said lots in any such town or city, which may contain a greater number of square feet than the maximum named in the act to which this is an amendment, shall be increased to such reasonable amount as the Secretary of the Interior may by rule establish: *Provided further*, That where mineral veins are possessed which possession is recognized by local authority, and to the extent so possessed and recognized, the title to town lots to be acquired shall be subject to such recognized possession and the necessary use thereof *Provided, however*, That nothing contained herein shall be so construed as to recognize any color of title in possessors for mining purposes as against the Government of the United States.

Approved March 3, 1865.

## AN ACT

For the relief of the inhabitants of cities and towns upon the public lands.

## SECTION

1. Town authorities may enter public lands occupied as town sites, at minimum prices in trust. Entry when to be made upon surveyed lands. Amount of lands that may be entered. Proviso. Where there is no

land office, statements to be filed where. Certain acts of trustees to be void. This act to apply to certain reservations. Approved, March 3, 1867.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled :*

That whenever any portion of the public lands of the United States have been or shall be settled upon and occupied as a town site, and therefore not subject to entry under the agricultural pre-emption laws, it shall be lawful, in case such town shall be incorporated, for the corporate authorities thereof, and if not incorporated, for the judge of the county court for the county in which such town may be situated, to enter at the proper land office, and at the minimum price, the land so settled and occupied, in trust for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in such town, and the proceeds of the sale thereof, to be conducted under such rules and regulations as may be prescribed by the legislative authority of the State or Territory in which the same may be situated: *Provided*, That the entry of the land intended by this act to be made, shall be made, or a declaratory statement of the purpose of the inhabitants to enter it as a town site under this act shall be filed, with the register of the proper land office, prior to the commencement of the public sale of the body of land in which it is included, and that the entry or declaratory statement shall include only such land as is actually occupied by the town, and the title to which is in the United States. If upon surveyed lands the entry shall, in its exterior limits, be made in conformity to the legal subdivisions of the public lands authorized by the act of twenty-fourth April, one thousand eight hundred and twenty; and where the inhabitants are in number one hundred and less than two hundred, shall embrace not exceeding three hundred and twenty acres; and in case where the inhabitants of such town

are more than two hundred and less than one thousand, shall embrace not exceeding six hundred and forty acres; and where the number of inhabitants is one thousand and over one thousand, shall embrace not exceeding twelve hundred and eighty acres; *Provided*, That for each additional one thousand inhabitants, not exceeding five thousand in all, a further grant of three hundred and twenty acres shall be allowed: *And provided further*, That in any Territory in which a land office may not have been established, declaratory statements as hereinbefore provided may be filed with the surveyor general of the surveying district in which the lands are situate, who shall transmit said declaratory statements to the General Land Office: *And provided further*, That any act of said trustees not made in conformity to the rules and regulations herein alluded to shall be void; effect to be given to the foregoing provisions according to such regulations as may be prescribed by the Secretary of the Interior: *And provided further*, That the provisions of this act shall not apply to military or other reservations heretofore made by the United States, nor to reservations for light-houses, custom-houses, mints, or such other public purposes as the interests of the United States may require, whether held under reservations through the land office by title derived from the crown of Spain, or otherwise: *And provided further*, That no title shall be acquired under the provisions of this act to any mine of gold, silver, cinnabar, or copper.

Approved March 2, 1867.



## AN ACT

To provide for the sale of lands of the United States containing coal.

## SECTION

1. Who may enter. How much price.
2. Persons in possession entitled to prove right of entry. If five hundred dollars has been expended may enter 640 acres.
3. Where claims may be filed.
4. A person or association can make only one

## SECTION

- entry. Must prove up and pay for in one year.
5. Conflicting clause. Claims made prior to this act. General Land Office to make rules
6. Not to impair rights acquired under prior law.

Approved, March 3, 1873.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled :*

That any person above the age of twenty one years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land-office, have the right to enter, by legal subdivisions, any quantity of vacant coal lands of the United States not otherwise appropriated or reserved by proper authority not exceeding one hundred and sixty acres to such individual person, or three hundred and twenty acres to such association, upon payment to the receiver of not less than ten dollars per acre for such lands where the same shall be situated more than fifteen miles from any completed railroad, and not less than twenty dollars per acre for such lands as shall be within fifteen miles of such road.

SEC. 2. That any person or association of persons severally qualified as above, who have opened and improved, or shall hereafter open and improve, any coal mine or mine upon the public lands and shall be in actual possession of the same, shall be entitled to a preference right of entry, under the foregoing provisions, of the mines so opened and improved: *Provided*, That when an association of not less than four persons, severally qualified as in section one of this act, shall have expended not less than five thousand dollars working and improving any such mine or mines, such association may enter not exceeding six hundred and forty acres, including such mining improvements.

SEC. 3. That all claims under section two of this act must be presented to the register of the proper land district within sixty

days after the date of actual possession and the commencement of improvements on the land, by the filing of a declaratory statement therefor; *Provided*, That when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office: *And provided further*, That where the improvements shall have been made prior to the expiration of three months from the passage of this act, sixty days from the expiration of the said three months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this act shall be allowed until the expiration of six months from the date hereof.

SEC. 4. That this act shall be held to authorize only one entry by the same person or association of persons under its provisions; and no association of persons any member of which shall have taken the benefit of this act either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions of this act; and no member of any association which shall have taken the benefit of this act shall enter or hold any other lands under its provisions; and all persons claiming under section two hereof shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.

SEC. 5. That in case of conflicting claims upon lands where the improvements shall be hereafter commenced, priority of possession and improvement, followed by proper tiling and continued good faith, shall determine the preference right to purchase. And also where improvements have already been made at the date of the passage of this act, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties; and the Commissioner of the General Land Office shall be, and is hereby, authorized to issue all needful rules and regulations for carrying into effect the provisions of this act.

SEC. 6. That nothing in this act shall be construed to destroy

or impair any rights which may have attached prior to its passage, or to authorize the sale of lands valuable for mines of gold, silver or copper.

Approved March 3, 1873.

---

## FARMING AND PASTORAL LANDS.

---

Colorado had been settled for three years before the Indian title was extinguished to any portion of it, or surveys were made by the general government. Even at this date but a small portion of the Territory has been surveyed and opened, in the broadest sense, to settlement. This led to the natural recognition of rights of occupancy by settlers which took form first in club law, and at the first session of the Legislature, in November, 1861, these regulations of the clubs gave place to a Territorial law.

These claims were taken as farms, ranches, town lots, &c. On the plains, or valley, as they are generally called, town sites were taken by companies. In the mountains each occupant claimed his individual lot, filing with the district recorder, and later with the county recorder, a simple declaration similar to that presented in the law which follows.

Claims could in no case exceed one hundred and sixty acres, and when more land was desired, the subterfuge of securing it through some other claimant was resorted to, from whom it would be obtained by a nominal purchase.

The survey of the public lands and formal opening of them to settlement by filing in the United States land office, made local and territorial law mostly inoperative so far as surveyed lands were concerned.

But a very small portion of the lands within, or west of the mountains has thus far been surveyed, and hence the necessity for the territorial law which still remains on our statute books. Whoever desires to settle upon unsurveyed lands, seeks a desirable place and occupies it. If he fears interference from others, he files a declaration of his claim with the county recorder. If he still fears, his remedy is to secure a survey under provisions of the law hereinafter presented un-

der their proper head. The aim of our legislatures has only been to regulate and protect the rightful possession and occupancy of settlers without even appearing to interfere with the paramount title of the United States. The law enacted January 10, 1868, virtually comprises all that have gone before, is the one now in force, and is here given. In many particulars, where not in conflict with United States laws, it applies to surveyed as well as unsurveyed lands.

---

## CHAPTER LXXII REVISED STATUTES OF COLORADO.

SECTION 1. Conceding to the United States of America the primary and paramount right to dispose of the soil of this territory, according to the laws existing or to be enacted by congress, and full and complete exemption from every form of taxation of their property, it is hereby declared, that as between all the good citizens now residing in, or who shall hereafter come to reside in this territory, and as between them or any of them, and others, having or claiming, or now or hereafter pretending to have or claim, any right to occupy, possess, and enjoy any portion of the public domain situate within the boundaries of this territory, and as between each and every of them, and all other persons, associations, corporations and powers, except the government of the United States of America, the right as the same may exist under the local laws, to occupy, possess, and enjoy any tract or portion thereof, shall be respected in law and equity in all the courts and tribunals of this territory.

SEC. 2. All rights of occupancy, possession and enjoyment of any tract or portion of the said public domain, except mining claims, acquired after the adoption of this chapter, shall be expressed and described in a declaration, in cases of original occupation, and by a deed in cases of purchase, duly acknowledged by some officer authorized to take acknowledgments of deeds, and recorded in the office of the recorder of the county in which the land is situated.

SEC. 3. The owner of every claim or improvement, on every tract or parcel of land, has a transferable interest therein, which



may be sold in execution or otherwise; and any sale of such improvement is a sufficient consideration to sustain a promise.

SEC. 4. All rights of occupancy, possession and enjoyment of any tract or portion of the said public domain acquired before the seventh day of November, A. D. 1861, shall be ascertained, adjudged and determined by the local law of the district or precinct in which such tract is situated, as it existed on the day when such rights were acquired, or as it thereafter may have existed; and if there were no local laws at that time, then by the common custom then prevailing in respect to such property in the district or precinct in which it existed. All such rights of occupancy, possession, and enjoyment, acquired since the said seventh day of November, A. D. 1861, shall be ascertained, adjudged, and determined by the laws of this territory in force at the date of such acquisition.

SEC. 5. The declaration of an occupant of a tract or portion of the public domain, required by the second section of this chapter, shall be substantially in the following form: To all whom these presents may concern: Know ye, that I, A. B., of —, in the county of —, in the Territory of Colorado, do hereby declare and publish, as a legal notice to all the world, that I have a valid right to the occupation, possession and enjoyment of all and singular that tract or parcel of land, not exceeding one hundred and sixty acres, situate, lying and being in the township of —, in the county of —, in the territory of Colorado, bounded and described as follows: (here insert the description,) together with all and singular, the hereditaments and appurtenances thereunto belonging or in anywise appertaining. Witness my hand and seal, this — day of —, in the year one thousand eight hundred and sixty —. (To be subscribed with the full christian and surname of the person making the application, and acknowledged in the same manner as a deed of real estate.)

SEC. 6. In all legal or equitable proceedings hereafter instituted in any court in this territory, the record of any declaration, deed or mortgage, or other muniments of right, referred to in the third and fifth sections of this chapter, shall be received, except as against the United States; and all persons

claiming under the United States, as presumptive evidence of the regularity of the paper itself, under the local law or custom existing at the time of its execution; and if the regularity thereof shall be challenged, the burden of proving the alleged irregularity shall rest upon the party making the challenge.

SEC. 7. The declaration of every occupant of any tract or portion of the public domain, mentioned in section five of this chapter, shall not be construed to include any gold-bearing quartz lodes, silver lodes or gold diggings; but said lodes and diggings shall be excepted from the tract of said occupant, and shall be subject to be occupied, possessed and enjoyed as herein-after provided.

SEC. 8. Any person settled upon any of the public lands belonging to the United States, may maintain trespass *quare clausum fregit*, trespass, ejectment, forcible entry and detainer, unlawful detainer, and forcible detainer, for injuries done to the possession thereof.

SEC. 9. On the trial of any such cause, the possession or possessory right of the plaintiff shall be considered as extending to the boundaries embraced by the claim of such plaintiff, so as to enable him to have and maintain either of the aforesaid actions, without being compelled to prove an actual inclosure: *Provided*, That each claim shall not exceed in any case one hundred and sixty acres of land.

SEC. 10. Every such claim to entitle the holder to maintain either of the aforesaid actions, shall be marked out so that the boundaries thereof may be readily traced, and the extent of such claim easily known; and no person shall be entitled to maintain either of said actions for possession of, or injury done to any claim, unless he occupy the same, or shall have made improvements thereon to the value of one hundred dollars.

SEC. 11. A neglect to occupy such claim, or to inclose at least five acres with a reasonable fence, or plough at least five acres of the same, for the period of six months, shall be considered such an abandonment as to preclude the claimant from maintaining either of the aforesaid actions.

SEC. 12. Any person who may have a title to occupy any lot or lots within any city or village plot, or any lots or mining

claim within any mining district, in this Territory, in virtue of a certificate, deed of gift or purchase from the original claimant or claimants or their assigns, as well as all purchasers, under any decree or execution of any of the so-called provisional government courts, people's or miners' courts, of the lands situate within any city or village plot, or any lots, lands or mining claims situate within any mining district, together with the original claimant or claimants of said lots, lands, or mining-claims, shall be entitled to maintain the actions, authorized by the eighth section of this chapter, against any and all persons who shall enter upon and occupy said lots, lands, or mining-claims, or any of them: *Provided*, It shall be lawful for the citizens of any mining district to declare an abandonment of any creek, river, gulch, bank, or mining-claim, a forfeiture of the rights of the claimants thereto; in which case, the parties claimant shall not be enabled to maintain either of the actions, mentioned in section eight of this chapter.

SEC. 13. Nothing in this chapter contained shall be construed to deny the right of the United States to dispose of any lands in this territory; nor shall the fact, that the title to any lots, lands, lodes or mining claims, hath not passed from the United States, be any bar to the recovery of the plaintiff in either of the actions specified in section eight of this chapter. As against the United States, and all persons holding any of said lands under the United States, or the laws thereof, this chapter shall be of non-effect and void.

SEC. 14. Sections ten and eleven of this chapter, are not intended, and shall not be construed, to affect or apply to mining claims; but shall affect and be applicable to claims held or used for arable or pastoral agriculture only.

SEC. 15. Whenever any improvements may be made upon any claim held or used for arable or pastoral agriculture, or upon any building-lot, mill-site, or other lot or premises, and any person or persons shall demand of the claimant thereof to mine any portion of said claim, upon which such improvements may have been made, it shall be lawful for the occupant or holder of such claim to require a good and sufficient bond, in a sum double the value of the improvements upon the land

sought to be mined, from the party or parties demanding to mine upon such claim, with two or more sureties, to be approved by any justice of the peace of the township in which the claim is situate, conditioned that the said party or parties shall pay all damage which may be sustained by the occupant or holder of such claim, to the improvements thereon.

SEC. 16. It shall be the duty of the said justice of the peace, by whom the bond is required to be approved, as is above recited, in case the value of the improvements cannot be agreed upon by the claimant and the party or parties seeking to mine, to appoint a day and hour to hear testimony respecting the value of the improvements which may be damaged by reason of such mining.

SEC. 17. It shall be the duty of the justice to require the sureties entering into such bond as is above required, to justify before him, each in the sum stated in said bond; and if the claimant shall except to the said sureties, or either of them, it shall be lawful for said justice, and he is hereby required to examine said surety or sureties excepted to, on oath touching the sufficiency of said surety or sureties; and if the justice shall find either or both of said sureties insufficient, it shall be the duty of the justice to require further sufficient surety or sureties, which shall be likewise approved, and shall justify, as is above required.

SEC. 18. It shall be competent for said claimant to demand from the obligees in said bond, at any time after one week after mining shall be commenced on said claim, such sum as may be equal to the damage done the improvements thereon, and after every week it shall be competent for said claimant to make the like demand, unless the payment of the damage done or to be done said improvements, shall, by the claimant, be postponed for a longer time.



## UNSURVEYED LANDS.

Lands to which the Indian title has been extinguished, though unsurveyed, are offered to settlement and survey. Should persons desire to acquire titles to such lands and thus secure themselves from possible encroachment, a survey is necessary, and we here make extracts from the Circular of the General Land Office, on this subject, sent to the various District Land Offices.

## DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE, MAY 6, 1871.

By an act of Congress approved March 3, 1871, entitled "An act to amend an act entitled 'An act to reduce the expenses of the survey of public lands in the United States,'" approved May 30, 1862, the following became a provision of law:

"SECTION 11. *And be it further enacted*, That in all cases where settlers shall make deposits in accordance with this act, to the credit of the United States, for public surveys, such amounts so deposited shall go in part payment for their lands situated in the townships, the surveying of which is paid for out of said desposits, and effect shall be given to this act by regulations to be prescribed by the Commissioner of the General Land Office."

In order to carry the foregoing into effect, the following regulations are prescribed for your observance, viz:

When one or more settlers on public lands shall apply to the Surveyor General of the district within which such lands are situated, for the survey of a particular township, at his or their expense, that officer shall furnish to said applicant or applicants two separate estimates, one being the cost of the subdivisinal survey of the surveyable portion of the entire township, and the other to cover the expense of platting the survey as required by the 10th section, act of May 30, 1862, and the resolution explanatory of the same of July 1, 1864. (U. S. Laws, vol. 10, p. 410, and vol. 11, p. 414, respectively.)

Settlers availing themselves of the provisions of the above quoted section shall deposit with a United States designated

depository to the credit of the U. S. Treasurer, on account of surveying the public lands and clerk hire in the Surveyor General's office, in the district in which their claims are situated, the sums estimated, as aforesaid, as the cost of the field and office work.

The Surveyor General will take precaution to estimate adequate sums, thereby preventing any deficiency in the payment of deputy surveyor, as well as for clerk hire involved in the service.

Where several settlers desire the survey of the same township, the necessary deposits to cover all expenses of the survey and platting may be so subdivided as to be proportionate to the amount of lands within the township claimed by each settler; this, however, is a matter to be regulated by parties applying for such surveys, but all applicants should be informed that the law makes no provision for the refunding of any excess of the deposit *over the value of the lands taken*; the excess, however, if any, over and above the actual cost of the *survey in the field and office work*, will be refunded as heretofore under the resolution of Congress of July 1, 1864. (U. S. Laws, vol. 11, p. 414.)

No certificate of deposit can be received in payment by the Receiver for more than the cost of the land at government price, and when the certificate is for more than that amount, the Receiver will indorse the amount for which it is received, and charge the United States with that sum only, and *not* with the sum named on the face of the certificate.

Where the amount of deposit is, however, *less* than the cost of the land, the certificate will of course be received at its face value, and the remainder of costs of land paid for in cash.

Assuming that the estimated cost of survey, (both office and field work,) is \$850, which amount the party deposits, and the actual cost is \$800; the party will be entitled, under the act of July 1, 1864, to \$50 thus deposited in excess of the actual cost of the field and office work; but he will not be entitled to the return of the \$600 deposited in excess of the government cost of one hundred and sixty acres at \$1.25 per acre, (amounting to \$200.)

If, however there are several applicants, the amounts deposited by each can be equitably arranged among themselves, provided, of course the aggregate deposits cover the estimated expenses of the survey and incidental clerk hire.

Very respectfully, your obedient servant,

WILLIS DRUMMOND,

*Commissioner.*

The general laws of the United States, concerning the public domain are too voluminous for the purposes of this work, and we therefore present in their place an epitome published by Daniel Witter, Esq., an eminent land attorney of Denver, believing it to be as nearly perfect as can be produced in the same space.

#### PRE-EMPTION.

1. Every man or unmarried woman over 21 years old, and every widow or other person who is at the head of a family, being a citizen of the United States or having declared his intention to become a citizen according to the law, is entitled to file upon and enter 160 acres of either \$1.25 or \$2.50 land.

2. The first step should be to commence improvements upon the land; after which the settler has thirty days, upon lands that have been offered at public sale, and three months upon lands that have not been so offered, within which to go or send to the land office and file a declaratory statement.

3. Lands settled upon prior to the survey must be filed on within three months from the day on which the township plat is filed in the land office.

4. Settlers *may* prove up and pay for their lands at any time after they have occupied them for six months, and they *must* prove up on *offered* land within one year after the date of filing, and on *un-offered* land within thirty-three months after the day of settlement or survey.

5. Settlers under the pre-emption act are allowed a reasonable time, according to their circumstances, within which, after

commencing their improvements, to erect a house and become a resident of the land. After that, their residence there should be continuous until final payment is made.

6. Only one witness is necessary for making final proof upon a pre-emption—two are required on a homestead.

7. To make a valid filing, the pre-emptor must in all cases make a settlement in person (that is, lay the foundation for a house, or make some other improvement) on the land on or before the day his declaratory statement is filed in the Land Office. It will not answer to file first and commence improvements afterward.

8. No person can make a valid settlement under the *pre-emption act* who owns three hundred and twenty acres of land in any State or Territory, or who moves from his own land in this Territory to settle on the public lands.

9. Where parties have settled on adjoining lands prior to their being surveyed, and cannot adjust the lines before entry, so as to make them conform to the natural subdivisions, they may make joint entry.

10. Any person may enter 160 acres of land free of cost, who shall plant and, for five years, cultivate 40 acres of the same in timber trees, not more than eight feet apart each way. Persons desiring to avail themselves of the benefit of this act, can go to the Land Office and make an entry of the land similar to a Homestead entry.

#### ADVERSE FILINGS—CONTESTS.

11. By a late decision of the Department, it is now held that all persons having unexpired filing on land must be notified before another person can enter and pay for the tract under the Pre-emption Act.

12. This notice must be served on the claimant in person, if he lives on the land, or can be found readily. If not, it must be published once a week, for four weeks, in some newspaper to be designated by the Register or Receiver.

13. On the day set for trial, the evidence of at least two witnesses must be produced to show that the person who made the filing has not complied with the Pre-emption Act.



14. If there is no appearance by the parties notified, and the evidence of abandonment is clear, the entry will be received at once. Otherwise the evidence will be submitted to the Department and its action awaited.

15. The notice should be given by the Register or Receiver, or both, who fix the time for trial. It must be served or published at the expense of the contestant, who must also pay for taking down the evidence, if there is no appearance on the other side. If there is an appearance by both parties, the Register and Receiver may apportion the costs equitably between them.

#### RELINQUISHMENTS.

16. If, however, a relinquishment can be procured from the person having the adverse filing, it will answer every purpose of the notice and hearing. Relinquishments to be effective must be in proper form and signed and acknowledged the same as a deed.

#### SECOND FILINGS.

17. In conformity with a late decision of the Supreme Court of the United States, the Department now holds that persons who have filed on one tract of *unoffered land* under the pre-emption act, and abandoned the same, can make a second lawful filing on another tract.

#### HOMESTEAD.

18. Persons making homestead entries, have six months after the date of the entry within which to build their houses and become residents of the land. From that time their residence thereon must be continuous. Going on to the claim and staying a night or so once in six months, is not complying with the homestead act, and entries occupied in that way are subject to cancellation.

19. A homestead may be paid for the same as a pre-emption at any time after the settler has resided upon it six months. Two witnesses are required to prove up on a homestead—one upon a pre-emption.

20. A homestead may now be made over a pre-emption filing without notice to the pre-emptor, but it will be subject to his rights if he has complied with the pre-emption act and in that case he can at any time bring on a contest for the cancellation of the homestead.

21. Any person who has a Homestead, and who, after three years' residence thereon, shall be able to prove that he has had under cultivation on said land, for two years, one acre of timber trees, not more than eight feet apart each way, for each sixteen acres of his Homestead, may make his final proof and secure his patent without further occupation or cultivation of the land.

22. A person holding land under the Pre-emption or Homestead Act, may convey a portion thereof by Special Warranty Deed, for church, cemetery or school purposes, or for the right of way to a railroad,, before he has made his final proof and entry.

23. If the settler continues his residence for five years he can make final proof and get a patent without paying more than land office fees.

24. This final proof must be made within seven years after the date of the homestead entry, or it will be cancelled and the land may be entered by any other person.

#### CANCELLATION.

25. Where a homestead claimant abandons his claim for more than six months, its cancellation may be secured by filing an affidavit in the land office, and giving notice, furnishing proof, etc., in the same manner as in a contest under the pre-emption act.

26. A homestead may be relinquished in the same manner as a pre-emption filing; but the land is not subject to a new filing or entry until after the relinquishment has been acted upon in Washington, and returned to the land office canceled.

#### SOLDIERS' AND SAILORS' HOMESTEADS.

27. Soldiers and sailors are allowed to enter under the homestead act 160 acres of \$2.50 land, and have other privi-

leges granted to civilians. A soldier of the late war, who has taken as a Homestead less than 160 acres, can take up enough more to make up 160 acres whether contiguous or not.

28. As the law now stands an immediate entry may be made, or the claimant may file a declaration either in person or by an attorney, for the land he wishes to enter, which will hold the claim for six months, within which time he must make his regular entry.

29. In making an entry under this act the claimant must show by a certified copy of his discharge, or if the discharge be lost, by other satisfactory evidence, the time when he enlisted and when he was discharged. The Secretary of War may issue duplicate Certificates of Discharge to soldiers who have lost the original.

30. In case of the death of a soldier, his widow, if unmarried, has the same rights that he would have if living, and if his widow be dead or married, his minor children can make the entry through a guardian.

31. In case of the application of a widow, she must produce similar evidence of the service of her husband, and minor orphan children must produce in addition to the above, evidence of the death or marriage of the mother. If the husband or father died during his term of enlistment, the whole time for which he enlisted will be deducted from the five years residence required.

32. Soldiers who have already made a homestead entry of 80 acres or less, may now enter under this act, enough more *adjoining land* to make up one hundred and sixty acres in all. If there is no vacant adjoining land they lose this right.

33. All soldiers and sailors who served 90 days or more in the United States army or navy in the war of 1861, are entitled to the benefit of this act, and the time they served not to exceed four years, or discharged on account of wounds or disability, the whole term of enlistment will be deducted from the five years' residence required upon a homestead before a patent can be secured. The residence upon the land, however, must be next after the date of entry and cannot be postponed until after the period of service has expired.

34. Any soldier or sailor who has had his homestead entry canceled by reason of his absence therefrom in the military or naval service of the United States may have his entry restored if the land has not been disposed of or if it has been disposed of he may enter another tract under the homestead act in lieu thereof.

35. Soldiers and sailors who occupy homesteads entered under the act of May 20, 1862, can now avail themselves of the provisions of the Soldiers' Homestead Act, and make their final proof whenever the time served in the army or navy added to the time they lived on their homesteads will make five years.

36. If a soldier desires to pay for his land at any time before the expiration of the time he is required to live upon it, he must pay the same price that would be required of a civilian.

37. Soldiers cannot lawfully sell their discharges to another person, so as to enable him to reap the benefits of this act. The entry can only be made in the name of the soldier himself and by him in person.

38. The occupation of a homestead or pre-emption by a tenant is not considered an occupation by the claimant, and will not hold the land.

#### RAILROAD LANDS.

39. The Secretary of the Interior has made the following important decision, to-wit: That, where odd numbered sections of land within the limits of the grant to the Kansas Pacific or Denver Pacific Railroad had been settled upon as a pre-emption, or entered as a homestead, prior to December 25, 1866, and such settlement or pre-emption was afterward abandoned, *the land reverts to the government* and not to the railroad.

40. Where the land was entered as a homestead, no proof of settlement is required. All that is necessary is to secure the cancellation of the homestead entry, by proof of its abandonment for six months or more, when it may be entered the same as any other government land.

41. Where the land was filed upon under the pre-emption act, it will be necessary to prove a settlement by such original



pre-emptor at or about the time alleged in the filing, which, in all cases, must be on or before the date of the declaratory statement was filed in the land office.

42. The above decision was afterward, on the fifteenth of August, 1872, changed substantially to the following.

43. It is now held by the department that where odd numbered sections were settled upon, the pre-emption act, or entered as a homestead, and were afterward abandoned *before* the grant to the railroad took effect, the land goes to the railroad and not to the government; but if abandoned *after* the grant became effective, the land remains government land and is subject to pre-emption and homestead entry; but not until after notice to all parties interested and proof of the facts above stated.

44. In this decision it is, however, provided that when, by direction of the commissioner of the general land office, under his interpretation of the rulings of the Secretary of the Interior, second entries or filings have been allowed within railroad limits upon lands previously covered by pre-emptions or homesteads, after the cancellation of the same, such second entries or pre-emptions will not be affected by this modification of previous decisions, but will, upon proof of compliance with the requirements of the pre-emption or homestead laws, be approved and patented.

#### HOW TO FIND VACANT LANDS.

45. Get a plat of the township in which you wish to locate, showing all the land filed upon and entered and what is still vacant. Then get the nearest settler to show you his land on the plat and the corners on the ground; from this you can with but little trouble with the use of a pocket compass trace out any vacant tract you may desire to look at. Plats cost \$1.50 per township.

#### ERRONEOUS ENTRIES AND FILINGS.

46. Where by mistake a settler files on or enters a different tract from that intended, the error can be corrected even after

the patent has been issued for the land so erroneously entered.

#### PATENTS.

47. When a final entry is made the settler gets a certificate or receipt from the register or receiver of the land office. The other papers in the case are forwarded to Washington at the close of the month and in time are carefully examined and if found correct a patent is issued and forwarded to the Register of the land office, from whence it may be procured by returning the certificate or receipt.

48. If the entry should be found imperfect in any respect, or if there should appear to be adverse claims to the land, the entry is suspended until the error is corrected or the adverse claim withdrawn or shown to be invalid.

49. Patents may also be procured direct from the land department at Washington by forwarding the certificate or receipt to the commissioner, and they are in this way usually procured in a shorter time than through the land office.

After the patent has been delivered the department will not consider any matter relative to the illegality or irregularity of the entry which can then only be questioned through the court by a person claiming an equitable title to the land.

#### MISCELLANEOUS.

50. In making proof on a pre-emption claim or final proof upon a homestead, it is indispensable that the settler himself should come in person to the land office, but if he lives at a distance he need not bring his witnesses, but can have their testimony taken before the county clerk of the county in which the land is situated.

51. Agricultural college scrip or land warrants can be used to pay for a quarter section of \$1.25 land, or to pay one half for a quarter section of \$2.50 land under either the homestead or pre-emption act, thereby somewhat reducing its cost.

52. A 160 acre scrip or warrant cannot be laid on 80 acres of \$2.50 land, nor can scrip or warrants be used to advantage to

pay for 80 acres of \$1.25 land; entries of less than 160 acres are to advantage made with cash only.

53. Land outside of railroad limits that has been offered at public sale and not sold, can be entered at private sale at \$1.25 per acre, or located with land warrants or college scrip. acre for acre for acre under certain restrictions.

54. Public lands which have been surveyed can be had throughout the counties east of the mountains. Unsurveyed lands exist everywhere within and west of the mountains. A considerable part of southern Colorado was formerly Mexican territory and a portion of this is covered by Mexican grants.

#### INDIAN RESERVATIONS.

The greatest impediment in the way of agricultural settlements within the Territory, is the Ute reservation.

Articles II and III of the treaty of March 2d, 1868, with the Ute Indians, reads as follows:

"ART. II. The United States agree that the following district of country to wit: commencing at that point on the southern boundary line of the Territory of Colorado where the meridian of longitude 107° west from Greenwich crosses the same; running thence north with said meridian to a point fifteen miles due north of where said meridian intersects the fortieth parallel of north latitude; thence due west to the western boundary line of said Territory; thence south with said western boundary line of said Territory to the southern boundary line of said Territory; thence east with said southern boundary line to the place of beginning, shall be, and the same is hereby, set apart for the absolute and undisturbed use and occupation of the Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit among them; and the United States now solemnly agree that no persons, except those herein authorized so to do, and except such officers, agents, and employees of the government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law shall ever be permitted to pass over, settle upon, or

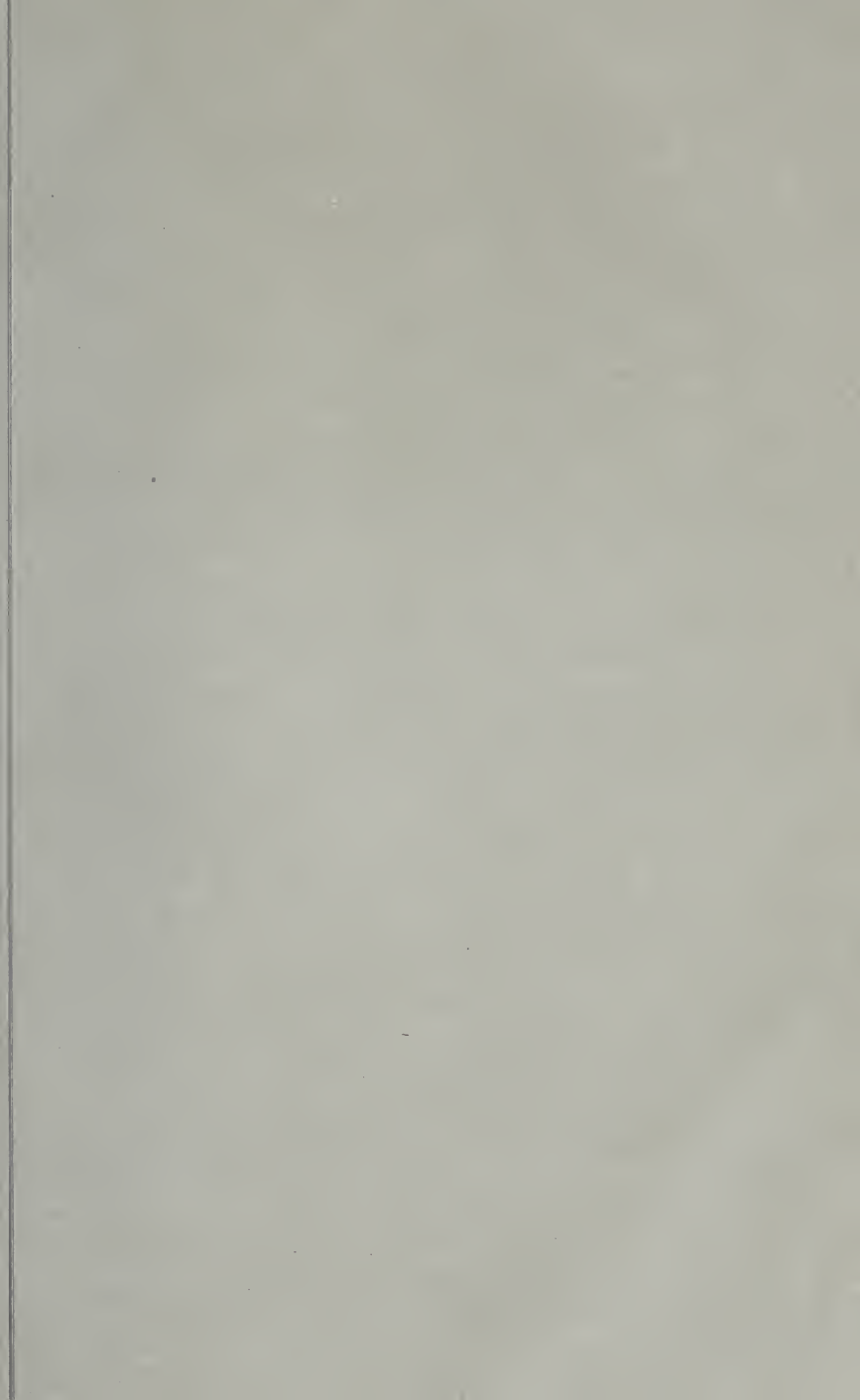
reside in the territory described in this article, except as herein otherwise provided.

ART. III. It is further agreed by the Indians, parties hereto, that henceforth they will and do hereby relinquish all claims and rights in and to any portion of the United States or Territories, except such as are embraced in the limits defined in the preceding article."

This reservation occupies one fourth the entire area of Colorado, embracing a considerable portion of its best agricultural lands and mines. It is nearly half as great as the six New England States. The eastern line passes a little above Loma or Del Norte on the Rio Grande del Norte, and west of the range which lies west of the Arkansas river and of the Middle Park. The valley of Bear river is also outside of the reservation. It embraces within its bounds, the entire White river, most of the Grand river below the Middle Park, the Piney, Roaring fork, Gunnison, Uncompagre, San Juan and their tributaries.

This cannot but greatly impede the settlement of Colorado and curtail its production of the precious metals.







BRIGHAM YOUNG UNIVERSITY  
3 1183 21735

3 1197 21707 9216

[illegible]

Brigham Young University

